

**BAR  
STANDARDS  
BOARD**

REGULATING BARRISTERS

**Meeting of the Bar Standards Board**

**Thursday 24 July 2014, 4.30 pm**

**Room 1, First Floor, Bar Standards Board Offices,  
289-293 High Holborn, London, WC1V 7HZ**

**Agenda**

**Part 1 – Public**

			<b>Page</b>
1.	<b>Welcome and introductions (4.30 pm)</b>	Chair	
2.	<b>Apologies</b>	Chair	
3.	<b>Members' interests and hospitality</b>	Chair	
4.	<b>Approval of Part 1 (public) minutes:</b>		
	• <b>26 June 2014</b>	Annex A	<b>3-9</b>
5.	<b>Matters Arising</b>	Chair	
6.	<b>a) Action points and progress</b>	Annex B	<b>11-16</b>
	<b>b) Forward agendas</b>	Annex C	<b>17</b>
	<b><u>Items for discussion</u></b>		
7.	<b>Closure Report on The Regulatory Improvement Programme (TRIP) (4.40 pm)</b>	BSB 049 (14) Roger Hammond	<b>19-26</b>
	• <b>Main closure report</b>		<b>27-51</b>
	• <b>Appendix A: TRIP Financial statement for business year 2013-14</b>		<b>53-54</b>
	• <b>Appendix B: Programme deliverables report</b>		<b>55-57</b>
	• <b>Appendix C: Regulatory process costs (April 2014)</b>		<b>59-61</b>
	• <b>Appendix D: Programme risk profile</b>		<b>63</b>
	• <b>Appendix E: Action plans:</b>		
	❖ <b>outcomes focused regulation</b>		<b>65-69</b>
	❖ <b>risk assessment</b>		<b>71-73</b>
	❖ <b>supervision</b>		<b>75-82</b>
	❖ <b>enforcement</b>		<b>83-86</b>
	❖ <b>capacity &amp; capability</b>		<b>87-92</b>
	❖ <b>value for money</b>		<b>93-97</b>
8.	<b>Policy development framework (5.05 pm)</b>	BSB 050 (14) Amanda Thompson	<b>99-109</b>
9.	<b>Review of standard contractual terms and the cab rank rule (5.25 pm)</b>	BSB 051 (14) Ewen Macleod	<b>111-117</b>

**Items for noting**

- |  |              |                   |                |
|--|--------------|-------------------|----------------|
| 10. <b>Chair's Report on Visits and Meetings: Jun-Jul 14</b> | BSB 052 (14) | Chair             | <b>119-120</b> |
| 11. <b>Director's Report<br/>(5.45 pm)</b>                   | BSB 053 (14) | Vanessa<br>Davies | <b>121-133</b> |
| 12. <b>Any other business</b>                                |              |                   |                |
| 13. <b>Dates of next meetings</b>                            |              |                   |                |
| Thursday 11 September 2014 (budget)                          |              |                   |                |
| Thursday 18 September 2014 (main meeting)                    |              |                   |                |
| 14. <b>Private Session</b>                                   |              |                   |                |

**John Picken**

**Board & Committees Officer**

[JPicken@barstandardsboard.org.uk](mailto:JPicken@barstandardsboard.org.uk)

17 July 2014

**BAR  
STANDARDS  
BOARD**

REGULATING BARRISTERS

**Part 1 - Public**

**Minutes of the Bar Standards Board meeting**

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

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

**Item 1 – Welcome and introductions**

**ACTION**

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

**Item 2 – Apologies**

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

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

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

### **Item 3 – Members’ interests and hospitality**

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

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

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

### **Item 5 – Matters arising**

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

### **Item 6 – Action Points & Forward Agendas**

#### Action points and progress (Annex B)

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

#### Forward agendas (Annex C)

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

**JP to  
note**

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

BSB 041 (14)

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

13. **AGREED**

to note the report and to endorse its recommendations ie:

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

**Item 8 – BSB Draft Annual Report for 2013-14**

BSB 042 (14)

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

Amanda Thompson commented as follows:

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

15. Members commented as follows:

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

16. **AGREED**

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

**AT**  
**BSB**  
**Members**  
**AT to**  
**note**  
**AT**

**Item 9 – Regulatory Risks**

Oral report

17. Ewen Macleod commented as follows:

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

18. **AGREED**

to note the report.

**Item 10 – Principles for public and private items**

BSB 043 (14)

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

20. Members commented as follows:

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

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

**SMT to  
note  
SMT to  
note  
SMT to  
note**

**Item 11 – Chair’s Report on Visits and Meetings: May 14 – June 14**  
BSB 044 (14)

22. **AGREED**  
to note the report.

**Item 12 – Director’s Report**  
BSB 045 (14)

23. The Director thanked those Board Members who attended the TRIP update session for BSB staff (19 June 2014). She also commented as follows:
- Roger Hammond (Change Manager) will be invited back for the next meeting to speak on the TRIP closure report;
  - the Centre for Analysis of Risk and Regulation (CARR) at the London School of Economic held a Regulators’ Forum on 24 June 2014. This provided an opportunity to network with regulators outside of the legal sphere which proved useful;
  - paragraph 12 of the report refers to action following conclusion of the Impact Audit Survey of chambers. Letters will be sent out by the end of the first week of July and an update report on supervision returns will be made to the Board in October.
24. Simon Lofthouse QC referred to the recent resignation of the Investigations and Hearings Team Manager. Whilst this was for understandable personal reasons, it nevertheless continues the trend of turnover within the Professional Conduct Department.
25. Vanessa Davies acknowledged this point and stated that a number of options would be considered to organise a replacement for this key post, including, if necessary, secondment from another organisation.

**JP to  
note**

26. **AGREED**  
to note the report.

**Item 13 – Any Other Business**

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

**Item 14 – Dates of next meeting**

28. Thursday 24 July 2014.



**Item 15 – Private Session**

29. The following motion, proposed by the Chair and duly seconded, was agreed:

That the BSB will go into private session to consider the next items of business:

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

30. The meeting finished at 5.10 pm.



**BSB – List of Part 1 Actions  
24 July 2014**

*(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
13a (26 Jun 14)	undertake communications activities to increase awareness of the new rule (coming into force in July 2014) requiring all member of chambers' selection panels to be trained in fair recruitment	Amanda Thompson / Sarah Loutfi	immediate and ongoing	03/07/14	Most activity as set out in awareness raising comms plan have now been completed. Remaining activity set to be completed to timetable (end July 2014)
13b (26 Jun 14)	ensure that the sample "Reasonable Adjustments" and "Parental Leave" policies are more clearly signposted on the BSB website.	Sarah Loutfi	immediate	03/07/14	<b>Completed</b>
13c (26 Jun 14)	send the report on the supervision exercise on E&D rules compliance to the Bar Council equality team	Sarah Loutfi	immediate	03/07/14	<b>Completed</b>
13d (26 Jun 14)	develop a sample equality action plan and more detailed guidance for insertion into the current Supporting Information document	Sarah Loutfi	immediate	03/07/14	<b>Completed</b>
13e (26 Jun 14)	feed the findings of the supervision exercise report on E&D rules compliance into the wider review of the BSB Handbook.	Sarah Loutfi / Ewen Macleod	immediate	03/07/14	Ongoing – EDM report shared with Policy Team to inform review
13f (26 Jun 14)	develop an action plan to ensure improved levels of compliance with E&D rules and monitor improvements	Chris Nichols / Sarah Loutfi	by end Aug 14	03/07/14	Action plan in progress
13g (26 Jun 14)	provide input into Bar Council events with the Equality Officer Network, focusing on support for officers implementing work allocation and flexible working requirements	Sarah Loutfi / Rolande Anderson	immediate and ongoing	03/07/14	BC events to take place in the Autumn – BSB E&D has been invited to take part.

**BSB – List of Part 1 Actions  
24 July 2014**

*(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
16a (26 Jun 14)	circulate the current draft of the Annual Report to the PRP Committee	Amanda Thompson	immediate	27/06/14	<b>Completed</b> – mailed to PRP Committee members
16b (26 Jun 14)	that Board Members give any further detailed input about the content of the Annual Report to Amanda Thompson	BSB Members	on or before 4 Jul 14	15/07/14	<b>Completed</b> – no further detailed comment received.
16d (26 Jun 14)	provide a designed copy of the Annual Report.	Amanda Thompson	at the July meeting	15/07/14	<b>Completed</b> – to be made available at July meeting
20a & b (22 May 14)	prepares an action plan and public response statement for Jeffrey Report with oversight provided by Board Members	Vanessa Davies / Oliver Hanmer / Sam Stein QC / Justine Davidge / Richard Thompson	originally 24 Jul 14 – re-scheduled 18 Sept 14	14 /07/14  17/06/14	Completion of proposals delayed by unavailability of key players and now scheduled for September.  Staff team set up to review the Jeffrey Report and to develop proposals and an action plan. Staff session held on 18 June to discuss the Report. Board members nominated to assist on developing the action plan will be invited to comment on a draft by the end of June with final proposals presented to the Board at its July meeting
24b (22 May 14)	advise all committee members about the governance review and to explain that it may result in an earlier termination of their term office than previously stated	Amanda Thompson	by 26 Jun 14	15/07/14  17/06/14	<b>Completed</b> – letters sent to all Committee members on 14 July 2014  Work underway – several committee chairs have advised members informally. Process planned with HR and letters to be issued in the week commencing 25 June.

**BSB – List of Part 1 Actions  
24 July 2014**

*(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
24d (22 May 14)	inform BSB committee and sub-committee members reaching the end of either a first or second term in 2014 that they may be offered an extension of engagement until 31 December 2015	Amanda Thompson	by 26 Jun 14	15/07/14	<b>Completed</b> – letters sent to all Committee members on 14 July 2014
				17/06/14	Work underway – several committee chairs have advised members informally. Process planned with HR and letters to be issued in the week commencing 25 June
12c (21 Nov 13)	undertake a further review to the Standing Orders	Amanda Thompson / Chloe Dickinson	On hold	13/5/14	New timeline needed to reflect decision to undertake fundamental review taken by the Board at the Awayday.
				11/02/14	Consideration to some principles to be given at April Awayday
				14/01/14	Work has commenced
16 (24 Oct 13)	continue with implementation of the regulatory risk framework as agreed by the Board	Ewen Macleod	before Apr 14	15/7/14	Report received from InfluenceInc – SMT agreeing action plan. Regulatory Risk Manager expected to be in post 8 September.
				18/6/14	InfluenceInc Risk consultants reporting on maturity assessment in June 2014. Interviews completed for Regulatory Risk Manager.
				13/5/14	Work underway but implementation slower than expected due to delay in recruitment of Regulatory Risk Manager. Workshops have taken place regarding risks related to entity regulation.

## BSB – List of Part 1 Actions

24 July 2014

*(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
				11/03/14	Delays in recruitment mean first review will now be brought to June meeting. By the Board meeting training will have taken place for staff – first specialist session delivered on 13 March.
				11/02/14	First review to be brought to Board in March
				14/01/14	Discussed at Awayday in December; to be reviewed by SMT week of 20 Jan 2014 and by Board in February
				13/11/13	In progress. Updates in Director's report, performance report and corporate risk register. Key action for Board to note is need to schedule training dates for Board members in December.
16b (18 Jul 13)	gather feedback on accessibility of information on the BSB website about complaints	Amanda Thompson	before end Mar 14	15/07/14	PCD members have met with one of the stakeholder group members (which specialises in ensuring people have the knowledge, confidence and skills needed to deal with law-related issues) to discuss how we make complaints information available. A work plan is now being developed.
				17/06/14	Progress on stakeholder work has been very limited given volume of other communications activity. Arrival of new Communications Manager will free up resources to focus on this again.

**BSB – List of Part 1 Actions**  
**24 July 2014**  
*(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
				13/05/14	Stakeholder session focused on understanding complaints system, reflecting stakeholder group's needs. Further activities being planned to complete this action.
				11/03/14	Feedback will be sought at stakeholder session on 28 March.
				14/01/14	On track
				13/11/13	Stakeholder workshop held on 13 November dealing with QASA. Next session will be as below. Early indications are that engagement will be productive.
				17/07/13	Stakeholder workshop/seminar being planned to deal with communicating the work of PCD. Anticipate will be held before end of March 2014 but depends on stakeholder availability. Date will be confirmed when available.

**BSB – List of Part 1 Actions  
24 July 2014**

*(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
20a (16 Jun 11)	arrange for amended Memorandum of Understanding to be signed for BSB User Group and ensure disclosure of interests by members of the Group	Amanda Thompson	before 13 Jul 11	15/07/14	Consultant engaged to work on stakeholder engagement through until year end.
				17/06/14	No further progress made on this due to volume of other work. Arrival of new Communications Manager will enable resources (consultant) to invest more time into stakeholder engagement
				13/05/14	Not finalised at meeting due to need to focus on topics needed by stakeholders. Due to staff changes, this is now unlikely to be finalised until July, following further relationship building.
				14/01/14	Expected to be finalised at March 28 stakeholder group meeting
				13/11/13	To be progressed with stakeholder group following analysis of feedback received from first session held on 13 November.
				8 Oct 13	as below
				9 May 13	To be progressed as part of overall stakeholder engagement strategy
				13 Mar 13	To be progressed now new staff in post
				12 Jul 12	Ongoing



**Forward Agendas****Thursday 11 September 2014 (Budget meeting)**

- BSB draft Business Plan and Budget Bid for 2015-16 (incl fees & charges)
- PRP Committee annual report to the Board
- BSB Q1 Performance Report (includes Business Plan update, KPIs, Management Accounts, Corporate Risk Register)

**Thursday 18 September 2014**

- Entity regulation (fees, insurance, interventions) (part 1)
- PCD/PCC Annual Report
- Interim assessment against Regulatory Standards Framework
- CPD consultation (part 1)
- Office of Immigration Services Commission – barristers supervising immigration advisers
- Committee review update
- Jeffrey review action plan and public response document
- GRA Committee report to the Board (including Annual report from the Independent Observer)

**Thursday 23 October 2014**

- Forward strategic overview
- Returning Instructions consultation – final response
- BSB research strategy – wider proposals
- ABS application to the LSB – policy issues

**Thursday 27 November 2014**

- BSB Q2 Performance Report (includes Business Plan update, KPIs, Management Accounts, Corporate Risk Register)
- LETR – draft consultation on BPTC (part 2)

**Thursday 11 December 2014 (Board Away Day)****Thursday 29 January 2015**

Interim PCC report

**Thursday 26 February 2015**

- BSB Business Plan for 2015-16
- BSB Q3 Performance Report (includes Business Plan update, KPIs, Management Accounts, Corporate Risk Register)
- Inns Conduct Committee Rules

**Thursday 26 March 2015**



## Closure Report on The Regulatory Improvement Programme (TRIP)

### Status

1. The Regulatory Improvement Programme (TRIP) Closure Report was considered by the programme board at its meeting on the 18 June and was approved (with suggested amendments) for presentation to the Board.
2. This paper is now before the Board for discussion and decision.

### Executive Summary

3. Changes to regulation were first proposed in the Regulatory Standards Framework (RSF) proposed by the Legal Services Board (LSB) in 2012 and against which the BSB self-assessed its readiness. However, the BSB plans to take until 2016 to achieve its stated strategic goal of achieving a “Satisfactory” rating from the LSB.
4. The Regulatory Improvement Programme began in October 2012 and sought to establish the revisions to regulation that would be necessary to comply with the RSF and the cultural change that would be required by staff, board and committee members to accommodate the new requirements. The Board delegated responsibility for implementing the RSF to a programme board established in late 2012. The programme board also sought assurance from the GRA (risk) and PRP (finance and planning) committees during the programme.
5. The implementation of the framework was completed in Spring 2014 and a process of consolidation has since begun. The change programme was formally acknowledged to have completed the task of framework implementation in June 2014 and the Action Plans that accompany this report set out what needs to happen between now and 2016.
6. As noted above, the BSB seeks a successful conclusion to this transition through recognition by the LSB that the BSB has achieved a satisfactory degree of regulatory competence across the 5 pillars of the RSF (Risk; Outcomes focused regulation; Supervision; Enforcement; Capacity & Capability). There are two anticipated stages to achieving this.
7. Firstly, in demonstrating this autumn that the BSB has improved its competence from the assessment made in November 2012. The levels of assessment are set out by the Legal Services Board. The original assessment and progress to date are shown in the table below. The red, amber and green indicate progress against the assessment criteria in relation to each of the four pillars, bearing in mind our goal of reaching “Satisfactory” across all of them by March 2016 and our intention to move up at least one “step” each year to reach that goal.

2012 Initial self- assessment	Recognise needs to be done but work has not yet started	Needs improvement and work has started recently	Undertaking improvement and work is well underway	Satisfactory	Good
Outcomes focused regulation					
Risk Assessment					
Supervision					
Enforcement					
Capacity and capability					

2014 Initial self- assessment	Recognise needs to be done but work has not yet started	Needs improvement and work has started recently	Undertaking improvement and work is well underway	Satisfactory	Good
Outcomes focused regulation					
Risk Assessment					
Supervision					
Enforcement					
Capacity and capability					

8. Secondly, a further year of consolidation should enable the BSB to achieve its aim of reaching the level of “Satisfactory” formally approved by the LSB board in March 2016. This aim was set out in the 2013-16 strategic plan and aligns with BSB’s vision to become a modern and efficient regulator, operating in the public interest. The BSB continues to provide a comprehensive regulatory service during this period of change, requiring some “double working” and at the higher cost set out in the budgets for the strategic period. Costs are expected to plateau during 2014-15.

### Recommendations

9. The Board is asked to **note** the following:
- i) The attached programme closure report;
  - ii) The achievements of the programme summarized in the Background section 12-20 in this paper;
  - iii) The programme once approved, was completed as planned and within budget, achieving all but one of its objectives (see Lessons Learned No.2 at 5.1.16 in the closure report);
  - iv) Each pillar of the RSF started from a different level of readiness. Supervision, a new team, being the least prepared and Enforcement the most advanced. Achieving consistent (or better) competence across all 5 pillars of the RSF is therefore an uneven task and Enforcement expect to achieve a Satisfactory rating earlier than other teams;

- v) “Value for money” was not an explicit pillar of the RSF but is an important aspect of regulatory work across legal services. Increasing interest in regulatory costs is anticipated in the coming year as the cost of regulation is a stated focus of the 2014-15 LSB business plan;
  - vi) The work on value for money has resulted in a proposal for internal benchmarking of the cost of regulatory functions as a measure of their value over time and increased transparency of the cost of BSB regulation;
  - vii) The post-programme communications plan was approved at the June 2014 meeting. The plan addresses both internal and external communications and in particular the period leading up to the Bar Conference later in the year.
10. The Board is asked to **approve** the following:
- i) The action plans attached to the programme closure report;
  - ii) Oversight of these Action Plans by the PRP committee;
  - iii) Assurance of the Action Plans by the GRA committee;
  - iv) Responsibility of the Director for the progression and reporting of the Action Plans to the Board through the Director’s report;
  - v) The programme board to reconvene in October 2014 to review the governance arrangements.
11. It is recommended that the Board **consider at a future meeting** whether the BSB aspires to become a “Good” regulator, which in the experience of other regulators would incur substantial additional cost. The BSB’s current aspiration is to become competent and provide value for money, ie to meet all aspects the Legal Services Board outlines as “Satisfactory”.
12. The Board may also wish to **consider at a future meeting** the equality and diversity profile of the BSB and Board following the report of annual monitoring during the course of the programme (see Equality Impact Assessment at item 34 in this paper).

## Background

13. The BSB committed to adopt the RSF from 2012 and through its self-assessment the BSB set the targets for implementation. Furthermore the strategic plan for 2013-16 requires the BSB to have both implemented the RSF and achieved a substantial improvement in competence to regulate according to this framework. This paper marks the completion of the framework implementation and recommends the implementation of Action Plans over the next two years to achieve the strategic goal.
14. As noted previously (3), the Board delegated responsibility for overseeing the implementation of the RSF through a programme board, who held meetings on 14 occasions between December 2012 and June 2014. Progress was noted in the Director’s reports to the Board between 2012 and 2014.
15. The key areas of work were aligned with the pillars of the RSF and value for money. However, to be effective in the delivery of the RSF, a collaborative working approach is required representing a substantial change from the “silo working” that existed previously. In order to achieve the change of culture, all members of staff were encouraged to participate in changing working practices. The changes have been supported with a comprehensive learning and development plan derived from a staff skills audit that identified development needs. The resulting training has been well received (a positive response to training feedback from over 80% of staff). The structure of the BSB has also been adjusted to

accommodate the work required to sustain the pillars of the RSF and support the collaborative focus.

16. As a result there is now a depth of understanding of the components of regulatory work, who is engaged in it and for how long and at what cost. For the first time this has enabled the BSB to understand in detail the direct cost of its regulation. Sensibly, it has also shone a spotlight on the funds that the BSB needs in relation to HR, finance, IT and other support services required.
17. These significant developments were supported by the changes occurring in the Code of Conduct for barristers now embedded in the Handbook, which was successfully launched on the 6<sup>th</sup> January 2014. During the programme, work has continued on the BSB application to become an authorizing body for the regulation of entities. Entity regulation would mark a further step towards supporting the market requirement for new business models and eventually alternative business structures that are aimed at providing greater access and competitiveness in the provision of legal services.
18. The provision of new business opportunities for barristers and others in legal services does not come without risk to the public and the regulatory objectives and the approval of the BSB appetite for risk and a framework for assessment in the autumn of 2013 was another significant development in adopting the RSF. Risks posed by barristers to the statutory objectives lie at the centre of the framework, based on the evidence in relation to the regulatory outcomes of barristers' work and the market and clients they serve.
19. A persistent difficulty experienced by BSB has been in engagement with consumers. However, through an initiative with consumer groups, the BSB has made some promising progress towards bridging this gap. This relationship is important in providing evidence of the outcomes of barristers' work and the impact on consumers. Collaboration with these groups will build better communication routes with stakeholders and we are already seeing interest in contributing to policy development from these groups.
20. A policy development framework has also been introduced to enable staff working on new policies to use a common approach that ensures a consistency and rigor. Policy development will follow examination of evidence and the outcomes of regulation to ensure that regulatory development continues to be updated on a cyclical basis in a proportionate and targeted way.
21. These achievements and others outlined in the report signal the completion of implementation of the RSF as delegated to the programme board. The next step is to implement the Action Plans to consolidate the new regulatory practice.

## Comment

### *Outstanding tasks and Action Plans*

22. The Action Plans have been compiled with a view to ensuring that any outstanding tasks, set out in the report under post-programme tasks (5.1.16), are combined with what the senior team leaders consider is required to achieve the ratings the BSB seek in March 2015 and March 2016 and ongoing business plans. Commentary on the risks associated with these plans is included both in the plans themselves and the risk implications at para 36.

*Ongoing change*

23. As with all change programmes that extend over many months, the unexpected is likely to impact on some or all of the programme and some particular events that occurred during the period concerned should not go unmentioned. In particular, the impact of the decision of the Bar Council to reduce and enhance the accommodation in the offices at High Holborn. Although fraught with risks that the refurbishment work would cause upheaval, that a new document management system introduced to eliminate the need for paper storage would overload staff with additional work and responsibilities and that the accommodation would be cramped, staff responded resolutely. Although some work was delayed to allow these additional changes to occur and staff turnover increased in some areas, the programme was largely unaffected and some significant benefits were realized. The compression of staff onto two floors has enabled staff to come together and begin the collaborative approach needed for the RSF.
24. The Legal Education and Training Review (LETR) also reported back during the course of the programme requiring a reconsideration of the activities of the Education and Training department. The extensive nature of these changes and the determination to incorporate the principles of the RSF require a separate change programme to be commissioned and this is underway. The programme is likely to extend for a further protracted period in order that all the arrangements with suppliers and providers are accommodated within academic cycles.
25. QASA, entity authorization and other issues are likely to continue to impact on the workload, however, there is now a basic framework within which these issues can be aligned.

*Staff, board and committee development*

26. Both staff and the board have examined their skill sets, which has helped define the competencies sought to work with the RSF. Staff recruitment is now based on these competencies and has assisted with staff appraisal in 2014 and has contributed to the performance management system commissioned this year.
27. The success of the learning and development plan suggests that this should continue to be appraised and adapted to need and recent feedback suggests staff are keen to complete the remaining training set out in the plan.
28. It has been helpful that the rest of the organisation (i.e. Bar Council and Central Services) has aligned with the competency framework enabling consistency of approach to recruitment and remuneration to be adopted.

*Systems developments*

29. The programme report clearly indicates the need for a close collaboration with Central Services on a range of issues and in IT developments particularly to both assure and develop the BSB's capability. The identification and recruitment of business analysts within the Project Management Office in Central Services is a huge step towards assuring better provision of systems and other significant procurement.
30. Recent concerns over data management have initiated a review of practices in this area. The operational teams are not IT experts and the IT team is not expert in regulatory processes. The business analysts are the missing link and will need to be nurtured to ensure they are not overwhelmed with requests and responsibilities.

31. The closure report highlights the need for a collaborative system that enables all BSB staff to share a common set of data, information and knowledge that enables them to synthesize evidence, risk assessments, outcomes experienced by consumers with reports collated by Supervision and Enforcement. Without the holistic view, the BSB is likely to form inconsistent views and provide confusing if not contradictory policies and practices. The delay of the intranet or immaturity of other approaches to information integration and sharing constitute one of the greatest challenges to the successful assessment of the BSB as a “Satisfactory” regulator by the LSB in 2016.

### **Resource implications**

32. With the exception of any systems developments, the budget for 2014-15 has been carefully assembled to ensure that the budget is consistent with the stated intention of not increasing the cost of regulation. All known requirements for the year should have been incorporated into the budget and the Action Plans formulated with this in mind. As noted in the closure report, there are some new areas of work that are planned to commence in the coming year and that will increase the value of what BSB does within its budget.
33. As noted above, a key issue concerns the provision of data handling systems. Utilisation of current systems is under-developed and staff are resorting to local team databases that undermine the collaboration the RSF demands. The BSB and Central services must urgently collaborate to provide a satisfactory solution for the longer term.
34. As noted below, maintaining the momentum of the consumer engagement work will also be valuable in supporting the evaluation of the outcomes of barristers’ work. The current low level of resource for this work may need to be boosted.

### **Equality Impact Assessment**

35. A stated goal of The Regulatory Improvement Programme was to avoid any disruption to the equality and diversity profile of the BSB as a result of the programme. To facilitate this, the Equality and Diversity advisor, HR and the change programme manager worked together to gather the data from across the BSB and other comparative sources over the course of the year March 13-March 14 (covering all the key stages of TRIP). The report on the analysis of the data collected over the year showed no negative impact on the diversity profile as a result of the programme. Furthermore, comparisons with national, London and SRA data, showed the BSB to have a good profile.

### **Risk implications**

36. The main risk to the goal of achieving a satisfactory rating from the LSB lies in failing to deliver against the Action Plans and in not developing the integrated systems to support staff in their quest for collaborative working.
37. There is also a risk that failure to continue to engage meaningfully with the stakeholder groups would also endanger the quality of input to the BSB consideration of the outcomes of barristers’ work.
38. In each case, existing or recently revised business plans and budgets cater for the mitigation of these risks but vigilant monitoring of progress against plan will be needed.



**Impacts on other teams / departments or projects**

39. There are several potentially interesting dynamics amongst teams that may need to be examined in the light of emerging work. The Supervision team is spread across core activities and will also assume responsibilities for QASA, authorisation of entities and CPD. Depending on the timing of adoption of these schemes and potential changes in workload, flexibility of resourcing across teams is to be encouraged.

**Consultation**

40. Although no formal external consultations were held on aspects of the programme, a number of internal and external bodies were given presentations on the progress being made on the implementation of the RSF:
- i) The LSB were provided with the BSB self-assessment of competence against the RSF in November 2012 to which they formally provided detailed feedback in May 2013;
  - ii) The LSB were also presented with an overview of regulatory changes in December 2013 prior to the launch of the BSB Handbook, which was well received;
  - iii) Internally, the PRP committee received updates on progress against the plan and a financial statement of expenditure against budget during the programme at each of their meetings;
  - iv) The GRA Committee also reviewed the risk register at their meetings and as with PRP received an update on progress, to provide assurance on the delivery of the programme.
41. The continuing role of the committees in assuring the delivery of the Action Plans is proposed in the recommendations (para 9).

**Regulatory objectives**

42. The RSF was developed to support the delivery of regulation in line with all LSA07 regulatory objectives.

**Publicity**

43. The Communications plan approved by the programme board in June 2014, sets out the activities that are planned to engage the profession in the changes occurring in the regulation of barristers. The plan notes the need to explain the changes in terms that barristers will engage with and a starting point will be the contact that the Supervision team will have through Chambers inspections. Previous discussion with barristers on the purpose and activities of Supervision suggest that this has largely been well received and will provide a positive platform for engagement.
44. Other interventions are planned in coming months leading up to the Bar Conference in November 2014.
45. The communications plan also seeks to convey the change to a more proactive engagement with the profession whilst ensuring the profession maintains the high standards that it expects. The new communications manager will need to find the right tone to convey these messages to this complex audience.

**Annexes**

46. The Regulatory Improvement Programme closure report has 5 appendices:
- Appendix A – the financial statement for the programme;
  - Appendix B – the programme deliverables report;
  - Appendix C – Regulatory process costs;
  - Appendix D – Programme risk profile;
  - Appendix E – the future Action Plans (referred to in this paper).

**Change Programme Manager:**

Roger Hammond

July 2014



## **Programme Closure Report**

## **The Regulatory Improvement Programme (TRIP)**

Release status: Approved (TRIP programme board)

Date: July 2014

Author: Roger Hammond, Change Programme Manager

**Executive Summary**

1. The Regulatory Improvement Programme (TRIP) was a core component of the BSB's implementation of the Legal Services Act (2007) and the ambition to modernise its regulatory approach. In particular it was the vehicle used to meet the Legal Services Board's requirement that we adopt their Regulatory Standards Framework.
2. The BSB self-assessed its competence against this approach to regulation during 2012 and TRIP was commissioned to deliver regulation using the framework within 18 months.
3. A TRIP board was formed and this report details the work delivered in the programme, which was largely successfully completed in 5 stages. A delay at the outset in agreeing the governance of the programme extended the timeline from 18 to 21 months but in most respects the work has proceeded according to schedule and within cost and quality parameters.
4. There is now a high level of expectation amongst staff members to see many of the benefits of the programme realised, and particularly the investment made in learning and development. Inevitably there is further work to do to consolidate and embed the changes put in place during TRIP.
5. The essential recommendations from the Programme board are as follows:
  - 5.1 Follow-on work: the board are asked to endorse the Action Plans, appended to this report that set out the work required, in the opinion of the senior management team (SMT), to deliver the LSB's overall assessment of the BSB's regulatory competence as Satisfactory by 2016.
  - 5.2 Governance:
    - a) during the course of the programme, TRIP has been delivered as an integral component of the BSB 2013-2016 strategic plan. The TRIP board are asked to recommend that the SMT be held to account by the Director for delivering against the follow-on Action Plans. The Director will continue to report progress to the main Board as part of the "Director's Report".
    - b) as the work is integrated into the business and strategic plan, progress monitoring would continue to be effected by the PRP committee.
    - c) the board are asked to recommend that the BSB through the GRA committee provides assurance on delivery of the "Satisfactory" rating.
  - 5.3 The board may wish to comment on the advantages/disadvantages of striving for a "Good" rating.
  - 5.4 The board is asked to approve the communication plan, the target audiences and the timescale for implementation.
6. The formal programme closure requirements are set out at the end of the report.

**1 Report History****1.1 Document Location**

The document will be found on Objective at: BSB / Corporate Support / TRIP / Programme Management / Reports / Deliver – Final report.

**1.2 Revision History**

Revision date	Author	Version	Summary of Changes	Changes marked

**1.3 Approvals**

This document requires the following approvals:

Name	Date of Issue	Version
SMT	9.6.14	2
TRIP Board	12.6.14	5

**1.4 Distribution**

This document has additionally been distributed to:

Name	Date of Issue	Status

<b>Table of Contents</b>	Page
1 Report History .....	3
1.1 Document Location.....	3
1.2 Revision History .....	3
1.3 Approvals .....	3
1.4 Distribution .....	3
2 Programme Closure Report Purpose.....	5
3 Programme Closure Report Summary.....	5
3.1 Programme Background Overview .....	5
3.2 Programme Objectives .....	5
3.3 Programme Closure Synopsis .....	6
4 Programme Performance .....	7
4.1 Programme Achievements against success criteria.....	7
4.2 Outstanding Objectives .....	9
4.3 Performance against Milestones and Deliverables .....	10
4.4 Programme Schedule Corrective Actions (Change requests) .....	10
4.6 Programme Governance and Quality Management.....	11
4.7 Programme Overview .....	16
5 Programme Closure Tasks .....	19
5.1 Knowledge Transfer .....	19
5.2 Programme Risk Management .....	19
5.3 Communication Management.....	21
5.4 Lessons Learned.....	21
5.5 Post Programme Tasks (see also post-TRIP Action Plans) .....	23
5.6 Programme Closure Recommendations .....	24
5.7 Post Implementation Reviews.....	24
6 Programme closure - Report Approvals.....	25
Appendix A: TRIP Financial statement for business year 2013-14.....	25
Appendix B: Programme deliverables report.....	25
Appendix C: Regulatory process costs (April 2014) .....	25
Appendix D: Programme risk profile .....	25
Appendix E: Action plans.....	25

## **2 Programme Closure Report Purpose**

2.1 The Programme Closure Report is the final document produced on the Programme and is for the Programme Board, Executive and main Board to assess the success of the programme, identify best practices for future programmes, consider and take action on remaining issues through any delegated bodies and formally close the programme.

### **2.2 This Programme Closure Report**

- Reviews and validates the milestones and successes of the Programme
- Confirms outstanding issues, risks, and recommendations
- Outlines tasks and activities required to close the Programme
- Identifies Programme highlights and best practices for future Programmes.

## **3 Programme Closure Report Summary**

### **3.1 Programme Background Overview**

3.1.1 The programme was formulated in late 2012 in response to the self-assessment and action plan to improve regulatory standards, agreed between the BSB and the Legal Services Board (LSB). The LSB's Regulatory Standards Framework (RSF) establishes 5 "pillars" or areas of work which good regulation comprises, to which the BSB added a sixth dimension, Value for Money.

3.1.2 The Programme was named (through a competition amongst staff) The Regulatory Improvement Programme (TRIP) and a Programme board was established with authority delegated by the main Board to the TRIP board for oversight of the implementation of the Programme. Two committees (Planning Resources and Performance, PRP and Governance Risk and Audit, GRA) were asked to provide assurance to the programme as relevant to their roles. The TRIP board typically met each month to monitor progress.

3.1.3 The Programme Initiation Document (PID) was agreed in April 2013 following delays in agreeing the governance framework.

### **3.2 Programme Objectives**

3.2.1 The objectives of this Programme (expressed as "outcomes" in the PID) were to implement;

- (i) a modern, public-interest regulatory approach that is based on risk assessment and evidence, enabled by active supervision and supported by proportionate and fair enforcement action
- (ii) an internal organisational structure and culture which together enhance delivery of the new approach to regulation
- (iii) a Board, committees and executive staff with the capacity and capability to deliver to a satisfactory level against the standards framework by March 2016
- (iv) revised or new operating procedures for regulatory work based on efficiency and effectiveness and the new approach
- (v) financial modelling and resourcing to enable value for money in regulation
- (vi) a fair and transparent cost of regulation calculation, as compared to other professional bodies with similar regulatory responsibilities.

---

**3.3 Programme Closure Synopsis**

3.3.1 The Programme has achieved the following original objectives (as drawn from the outcomes in the Programme Initiation Document or PID):

(i) **Objective 1**

- The programme set out to implement the framework within which the BSB could regulate barristers in the future. The RSF is based on an assessment of the risk posed by barristers to the statutory regulatory objectives and the achievement of agreed regulatory outcomes, based on the evidence gathered from their work and the markets and clients they serve.
- The Programme has put in place a framework that shifts regulatory effort towards the monitoring and active oversight of barristers that is fair and proportionate to the risks posed, and away from retrospective enforcement action. Engagement with consumer representative groups now provides a more direct link to serving the public interest.

(ii) **Objective 2**

- The BSB structure is now directly focused on an approach to regulation which guides regulatory policy, operations and action. A collaborative working style has been introduced to encourage the sharing of evidence, a shared understanding of the risks presented and consideration of the outcomes experienced by consumers and in the justice system overall. The appropriate education and training of barristers remains crucially important to the profession and a sector wide review of requirements is currently shaping the future work of the Education and Training team, based on the same principles.

(iii) **Objective 3**

- One of the initial activities of the change programme was to undertake a skills gap analysis of BSB staff to assess the learning and development that would be required to ensure staff would be competent to undertake the new regulatory approach. The gap analysis resulted in a learning and development plan that has largely been implemented in support of the launch of the RSF.

(iv) **Objective 4**

- The regulatory processes mapped in the Spring of 2013 were revised in January 2014 to reflect the changes in regulatory approach and in particular the new Handbook. The costs of these processes (in both 2013 and 2014) were estimated and show that considerably more processes are now executed, in part due to legacy regulatory activity that will gradually curtail in addition to the several new processes in each area. However, BSB costs have not increased and therefore efficiency levels have increased: we are doing more work for the same money.

(v) **Objective 5**

- The cost of regulation has increased each year since the inception of the BSB in 2006 and it was a stated aim of BSB that the cost of regulation would begin a period of stabilisation on the conclusion of TRIP that would further reduce if the regulatory requirements remained steady. Identifying the regulatory process costs enabled for the first time an estimation of the cost of regulation in each team and across the BSB as a whole. Furthermore, through the identification of core regulatory functions, it is now intended that benchmarking of the annual costs of regulation will enable a regular and systematic evaluation of the value for money provided by the BSB.



**(vi) Objective 6**

- The cost of regulation of professional bodies has not received great attention in the past. However, the shift to greater regulatory independence and accountability has required a new degree of transparency particularly demanded by those facing the increasing costs. One way of assuring the profession that money is being well spent on their regulation is to compare similar bodies.
- The health service regulators (HSR's), of which there were 9 in 2011, took part in a benchmarking exercise across their sector co-ordinated by a research organisation. They chose a number of indicative regulatory functions and made corrections for organisational size and activity in order to compare costs.
- Clearly BSB is not in a position to compare regulatory functions across the legal services sector without the agreement of those concerned (which is probably unlikely in view of the poor response to information requested) and it has been suggested that this could be an activity that LSB undertake on behalf of the legal services sector. The LSB business plan indicates that it intends to review the costs of regulation in the 2014-15 business year.
- Overall, since January 2014, the focus has been on refining and delivering the BSB's new regulatory approach. It is expected that by March 2016, the BSB will have achieved a satisfactory rating from LSB against the RSF. So far, the LSB has provided verbal assurances that the change programme has been effective in introducing the RSF.

**4 Programme Performance****4.1 Programme Achievements against success criteria**

Success Criteria (Ref: Programme Initiation Document).

**4.1.1 Criterion: An externally assessed “satisfactory” rating against the standards framework.**

- (i) BSB recognised the distance to travel in implementing the RSF by admitting little alignment with the framework at the outset of the programme in 2011/12 and the aspiration to achieve a satisfactory rating across all strands of the RSF by March 2016. The Programme plan addressed this by attempting to implement the framework by March 2014 to allow 2 years of continuous improvement.
- (ii) By March 2015, through a further (informal) self-assessment, the BSB expects to reach its overall target of “Undertaking improvement and work is well underway”.
- (iii) By March 2016, through further work on engagement with consumer groups, the gathering and regular use of evidence, evaluation of the new risk assessment framework, and continued, targeted investment in staff and Board capacity and capability BSB expects to achieve the “Satisfactory” rating across all the “pillars” of the RSF.

**4.1.2 Criterion: A BSB structure based on the five areas of the framework and with centralised evidence collection and risk assessment.**

- (i) The BSB SMT proposed a new staff structure in the autumn of 2013 which maps to key areas of the RSF. In consultation with staff, which resulted in some voluntary redundancies, the regulatory work of BSB was reframed to reflect regulatory policy (risk and outcomes) and regulatory action (Supervision and Enforcement) with regulatory knowledge and information management (evidence gathering) sitting centrally. The structure is supported by activity to develop Capacity and Capability, looking at the range and depth of regulatory expertise required to fulfil all functions.

- (ii) The launch of the BSB Handbook in January 2014, was a milestone in the regulatory transformation of BSB and enabled the new structure to start to be meaningful to those within it.

**4.1.3 Criterion: Staff and Board / committee members clear about their roles and responsibilities and with the skills needed to perform well in the changed environment, where necessary via an agreed and accredited training and development programme. The equality and diversity profile in the organisation remains balanced.**

- (i) One of the key changes introduced through TRIP has been the shift in decision making responsibilities towards the executive but not entirely removed from the committees and Board. To enable this, a focus in the learning and development programme to support staff was specifically aimed at decision making and self-confidence to enact it.
- (ii) The initial audit of skills was premised on a competency framework developed with consultants to the programme, which was later merged with the Bar Council to bring about an organisation-wide framework and revised performance management system, introduced in Spring 2014 (with a view to full implementation in 2015).
- (iii) A Board development programme, based on similar work in relation to competences and the identification of skills gaps was also initiated.
- (iv) A further objective of TRIP was to ensure that any changes introduced had no adverse impact on the previous good balance in relation to equality and diversity at BSB. Monitoring throughout the period to March 2014 of protected characteristics has shown that TRIP has had no adverse impacts on equality or diversity.

**4.1.4 Criterion: Stream-lined and documented operating procedures which match the revised regulatory approach with embedded mechanisms for constant improvement.**

- (i) Since March 2013, BSB recorded the regulatory processes as “maps” that show the sequential steps from the start to the end of a process. These have been updated as the programme has progressed and all maps have been stored on the document management system for future reference. Furthermore, all the process maps contain the necessary information to calculate their costs, based on an annual frequency. A number of staff have been trained in business process mapping techniques.
- (ii) New or revised operating procedures have been devised and documented for both Supervision and Enforcement.
- (iii) A proposal to benchmark the cost components of regulation internally as a way of annually reviewing the efficiency of regulatory functions, was accepted by TRIP board at the April '14 meeting and subsequently considered by both PRP and GRA committees.

**4.1.5 Criterion: A slowing of the cost trajectory for regulation compared to the previous five years.**

- (i) Analysis of the cost of regulation recorded in the Annual Reports of BSB since 2007, shows a continuous increase year on year. The intention through the programme, was to constrain further increases in the cost of regulation from 2014 onwards and hopefully reduce costs in the longer term.
- (ii) The restructuring of the BSB has enabled some efficiency to be achieved and the conclusion of the change programme brings some reduction in expenditure that in total enables no increase in direct budget for 2014-15.
- (iii) However, there is much potential in the next 18 months to improve cost efficiencies still further through the changes in the education and training area and to seek re-deployment of staff from waning activities to those taking on new significance.

**4.2 Outstanding Objectives**

The following objectives are still being worked on, or are have been agreed by the Programme Board as not having been delivered:

- 4.2.1 The area that has not progressed as well as planned is in evidence collection, the reasons for which are multiple (limited resources and competing requirements for both staff and IT.) At present, evidence collection is confined to specific regulatory activities but is not yet systematically linked or transparent across teams, or centrally driven as proposed. Whilst it is not expected to impact on the self-assessment rating for March 2015, without concerted effort in 2014, there will be a risk to achieving a satisfactory rating in this area of the standards framework in 2015. (See Lessons learned section 5.4).
- 4.2.2 Not surprisingly, the anticipated progress on reviewing the outcomes published in the Handbook against the evidence collected, and in particular from consumer feedback, has not yet occurred. The evidence collection mechanisms need to be developed and a medium found for efficiently sharing this information with staff; further, a sufficient period of use of the new Handbook needs to have been completed: this suggests that proposing a review of outcomes within the period to mid-2014 was misplaced. However, this remains important for several reasons, including the development of staff knowledge and an understanding of the impact of BSB regulation on consumers. A shared perspective is also important in the cycle of policy development that many staff are involved in, that culminates in a review of the outcomes against those recorded in the Handbook.
- 4.2.3 Further training in risk assessment is also required for both staff and board/committee members and the seriously delayed appointment of a risk manager is slowing development of regulatory risk management. There appears to be a repeated cycle of late recruitment and appointments that slows progress towards planned objectives, which needs to be resolved with all parties concerned as this has affected the following appointments: risk specialist / risk manager / regulatory knowledge manager / research officer.

#### 4.3 Performance against Milestones and Deliverables Programme Schedule Overview (see table below)

- 4.3.1 The business case for the Programme was approved in April 2013.
- 4.3.2 Proposed timescales were 18 months to completion (March 2014 extended to June 2014).
- 4.3.3 A separate table showing the deliverables of the programme and their status is attached as Appendix B.

Milestone	Planned completion date	Revised completion date	Actual completion date
Self-assessment confirmed by LSB board	Dec 2012	March 2013	May 2013
PID agreed by TRIP board	Jan 2013		April 2013
TRIP board approval of closure of Mobilisation stage and start of Discover stage	Dec 2012	Jan 2013	April 2013
Approved completion of Discover and start of Deepen stage	Feb 2013	Jun 2013	Jun 2013
Approved completion of Deepen and start of Develop stage	Aug 2013		Jan 2014
Approval of risk assessment framework	Oct 2013		Sep 2013
New team structures approved	Oct 2013		Oct 2013
Supervision and enforcement strategies approved	Oct 2013		Sep 2013 Mar 2013
Consultations with staff where roles at risk concluded	Oct – Dec 2013		Nov - Jan 2014
Approved completion of Develop and start of Deliver stage	Nov 2013		March 2014
Initial phase of training completed	Feb 2014		March 2014
Final programme report accepted	Mar 2014	Jun 2014	

#### 4.4 Programme Schedule Corrective Actions (Change requests)

During the course of the programme, four unplanned change requests were submitted to TRIP board.

- 4.4.1 The first change request concerned the abandonment of initiating an academic course in regulatory theory and application. Consultation with academics confirmed that there was no viable business case for such a course, particularly in the economic conditions of Spring 2013. It was agreed that the pursuit of a course should be abandoned and that the development of the Regulatory Knowledge Group (RKG) would continue to fulfil the development of regulatory knowledge.
- 4.4.2 The second change request arose through the timing of the programme approval. Originally the plan had been to agree an enforcement strategy in January 2013 but this was delayed until April 2013 by which time the Enforcement strategy was approved by the entity regulation programme board. The action was therefore redundant.
- 4.4.3 Thirdly, on consideration of the enforcement strategy and the wording of the BSB Handbook, it was agreed that there was a requirement to make a correction to the definition of the term “professional misconduct”. The Handbook was updated and a revision of the enforcement strategy completed.

4.4.4 The fourth change also arose following changes in external circumstances during TRIP and of the timing of the publication of the Legal Education & Training Review (LETR) in summer 2013. The substantive nature of change relating to educational reforms that would extend well beyond the lifetime of TRIP, resulted in a further change request for exclusion from TRIP of educational reform, and separate treatment of the area. A formal, distinct educational change programme will shortly be launched.

#### 4.5 TRIP Budget Performance

4.5.1 The budget for 2012-13 was set at £258K but was underspent on recruitment and overspent on legal fees resulting in an overall saving of £80K.

4.5.2 The budget for 2013-14 was set at £427K against which there were overspends in the employment of specialists to support the change programme and additional significant ongoing legal costs. Overall there was an overspend of the TRIP budget of £45K in the 13-14 financial year.

4.5.3 The net balance of the programme to March 2014 was +£35K.  
Programme (2012-2014) Budget Overview (£k):

	Budget	Actual	Balance April'14
Specialist change staff	488	421	67
Qualification change (LETR)	20	0	20
Consultancy Services	60	35	25
Legal advice /drafting	35	166	131
Research funds	45	0	45
Communications	10	0	10
Training programme	25	26	1
<b>Total Programme Costs</b>	<b>683</b>	<b>645</b>	<b>35</b>

#### Notes:

- The Programme is **under** budget for the following reasons:
  - Despite the overspend on some of the specialists brought into support TRIP, the delay in recruitment to these posts offset the loss against budget.
  - The educational change programme envisaged as a necessary aspect of TRIP has been diverted to the more recently approved LETR change programme.
  - There has been no cash spend on research or communications activity.
  - The training budget was managed carefully to avoid overspend.
- There was significant overspend on legal advice and drafting over the duration of the programme as a result of unexpected protracted work on the Handbook and negotiations with LSB over entity regulation.

#### 4.6 Programme Governance and Quality Management

The following processes and procedures were employed to assure the quality of the Programme and deliverables.

##### 4.6.1 Programme Assurance

A Programme assurance role was implemented as a function within the Programme Board to independently assure the quality of the Programme process and deliverables for which the executive team was responsible.

##### 4.6.2 Programme Board

- Constituted on 11 December 2012 (Meeting 1), the programme board comprised:
  - Executive sponsor – Vanessa Davies, Director BSB
  - Senior Supplier – Oliver Delany, Director Central Services (subsequently replaced on departure by David Botha, Bar Council Head of Finance)

- Senior Users – Patricia Robertson, QC; Tim Robinson and Rolande Anderson (BSB Board members)
- (ii) Programme Assurance – Richard Thompson OBE (BSB board member).
- (iii) The assurance function was supported by two committees which had previous knowledge of the RSF. The GRA Committee had responsibility for approving the self-assessment of BSB's performance against the RSF criteria during the summer and autumn of 2012 and prior to the programme start-up. The PRP Committee had particular interest in the planning and performance aspects of the programme and reviewed the spend against programme budget.
- (iv) The Change Programme Manager reported regularly to the Programme Board.
- (v) Due to pressure of other board and committee meetings, the programme board requested review meetings and these were held approximately monthly throughout the programme (14 minuted meetings to June 2014). Some of the meetings were held "electronically" with papers being circulated for comment and reply by e-mail and this format worked well.

#### 4.6.3 Process Development

The Board had oversight of the conduct and in particular the delivery of the programme. Board members were not directly engaged in "managing" aspects of the programme, which for the most part was under the guidance of the six workstream leads.

- (i) Risk – Amanda Thompson
- Key deliverable: the risk assessment framework developed with Mike Kilgour, consultant.
- (ii) Outcomes Focused Regulation – Ewen Macleod
- Key deliverables: Handbook launched on 6 January 2014 containing the expected outcomes of the new rules and code of conduct. Process maps and costs. The development of the entity regulation authorisation application is ongoing due to negotiation with LSB, delaying the review of outcomes.
- (iii) Enforcement – Sara Jagger
- Key deliverables: the Enforcement strategy and operating procedures, process maps and costs.
- (iv) Supervision – Oliver Hanmer
- Key deliverables: consultation and approval of the Supervision strategy, operating procedures, process maps and costs.
- (v) Capacity & Capability – Simon Thornton-Wood
- Key deliverables: the skills audit, competency framework and learning and development plan. The development of the Regulatory Knowledge Group, a body of middle and senior managers with responsibility for guiding the regulatory approach of the BSB.
- (vi) Value for Money – Roger Hammond
- Key deliverables: the cost of regulatory processes and enabling the business analysis of the processes, demonstrating the impact of change on the cost of regulation, benchmarking and the recorded cost of pro bono contributions by the profession.

- (vii) Presentations were made to the TRIP board in each of the workstream areas in May 2014 indicating progress against the RSF self-assessment and future plans to achieve a “satisfactory” rating, as a regulator, from LSB.
- (viii) During the early part of the programme some additional planned resources were recruited that have supported risk evaluation, financial accounting, the management of contracts and service level agreements and governance arrangements through a scheme of delegations. All have contributed strongly to the programme.

#### 4.6.4 Acceptance Criteria

- (i) All key areas of delivery followed a general approval approach through the senior management team (SMT), where appropriate GRA/PRP, the TRIP board and where required the BSB board.
- (ii) To minimise risk, financial and reputational loss, the TRIP board was asked to review progress against the programme plan in stages; the formal progression to the next stage of the programme being dependent on the approval of the TRIP board. The TRIP board is also responsible for the acceptance of the final report, closure of the programme and reporting to the board.
  - Stage 1 – Mobilisation (the preparation for the programme, planning, resources, work plans, budget, support services).
  - Stage 2 – Discover (providing the detailed basis for the change of regulatory processes).
  - Stage 3 – Deepen (investigating the data gathered in Stage 2 and preparing the framework of the future state).
  - Stage 4 – Develop (bringing it all together to prepare for launch of the new regulatory framework).
  - Stage 5 – Deliver (implementation and delivery, troubleshooting, monitoring and reporting).

#### 4.6.5 User Pilot

- (i) The main area where a user pilot was employed, concerned the implementation of the enforcement database. Concern had been expressed in the risk register over the lack of connectedness between user IT system requests and the commissioning of IT software/systems. Consequently it was agreed with IT that the implementation of the enforcement database would be monitored according to the service level expected for IT systems implementation. Furthermore, there was additional benefit in observing a model in which a “business analyst” (Paul Martyn) supported the middle ground between the IT request and IT use.
- (ii) The preparations proceeded well with good interchange between the business analyst and the software developers.
- (iii) Crucially, at delivery, Paul Martyn was taken seriously ill and was off work for some time. Despite this the preparatory work paid off and at implementation there were few problems and Paul was able to return to resolve any remaining issues.
- (iv) The success of this model encouraged Central Services to employ a business analyst on a permanent basis to engage in future IT developments. See also post programme tasks below.

**4.6.6 New Processes**

- (i) During the discovery stage in early 2013, the majority of staff were involved in creating diagrams (for the first time) of their regulatory processes and determining the amount of resource required, which enabled estimation of the cost of regulation based on actual resource inputs. The total cost of all regulatory processes was estimated at £2.25M based on the resources used during the year to March 2013.
- (ii) During the later stages of the programme, in the autumn of 2013, new processes were identified and some existing processes modified to comply with the new approach to regulation. Not all processes, particularly the administrative aspects of education and training, required change at this stage (changes are expected as part of the post-LETR programme). The costs of the unchanged processes are shown in Appendix C under the column marked “Old” and amount to the sum of £1.2M. The cost of processes that were adjusted to accommodate the RSF shown in the column headed “Modified”. The entirely new process costs are shown under the column headed “New”. In total the cost of regulatory processes in March 2014 was estimated to be £2.44M.
- (iii) The new processes extend into change of supervision responsibilities, QASA and entity regulation. Education and Training processes will be reformed through the post-LETR programme.
- (iv) The new processes represent not only a step change in regulatory approach but also a significant cost, which has been absorbed into the resourcing structure of the “new” BSB.
- (v) At the end of the table in Appendix C, under the heading “BSB total cost of processes”, the total of the new, modified and old processes are shown. The new process cost is estimated at £265K, modified processes £978K and the remaining legacy processes at £1,195K (respectively 11%, 40% and 49% of the total cost of processes in 2014). This suggests that just over half of all processes have changed as a result of the RSF.
- (vi) However, the process reviews are work in progress and further changes are expected in risk management, CPD and pupillage. This body of new work, delivered with the same budget as the previous year would represent a significant gain in efficiency.

**4.6.7 Change management**

- (i) At the start of the programme BSB was spread across several floors and a certain amount of silo working was prevalent that inhibited all levels of staff from fully engaging in the BSB’s business. The change programme manager’s previous experience of utilising all levels of staff in organisational change suggested that the BSB would benefit from adopting this (whole systems) approach. It was important from the outset to engage with the majority of staff and both process mapping and the skills audit enabled the majority of staff to engage with the change programme. This has continued with the learning and development plan, which also drew in some colleagues from the rest of the organisation.
- (ii) The development of the Regulatory Knowledge Group (RKG) has also been an important factor in the development of the middle management group as a knowledgeable resource, particularly in the technical aspects of regulation.



- (iii) At the senior team level, the change programme whilst a challenge in several respects, has become a “new glue” to their efforts and the programme disciplines have brought a little more responsibility to their role. The SMT has also led some very helpful interventions on a variety of work and regulatory issues that have been well received by staff as demonstrating leadership of change.
- (iv) Whilst formal change management process has been covered in the change requests to the programme board, much has been achieved through the work of consultants on the competency framework and learning and development plan.

#### 4.6.8 Equality & Diversity

- (i) One of the specific programme requirements was to monitor equality and diversity over the course of the programme. Whilst initially this was expected to be based on the diversity statistics produced by HR, Sarah Loutfi has worked with HR to provide some more meaningful statistics and useful comparisons with local and national as well as regulatory communities. The BSB has been found to stand up well to comparison and appears to currently have a more diverse profile than the SRA.
- (ii) Most importantly, TRIP has been found to have had no deleterious effect on equality and diversity measured over the course of the last 12 months to March 2014. The report was presented at the April TRIP board meeting.

#### 4.6.9 Support Services (Central Services)

- (i) Having identified with the programme board a set of useful reporting lines to support the programme, the following reports were commissioned with Central Services functions.
  - Equality & Diversity monitoring with HR, co-ordinated by Sarah Loutfi (E&D Adviser)
  - Absence monitoring – HR, co-ordinated by Joanna Lisowska (HR Advisor)
  - Financial statement for the programme – Finance, co-ordinated by Nick Miller (Senior Management Accountant)
  - Central Services report – Head of Finance, David Botha.
- (ii) Richard Thompson, PMO and project manager, also assisted with the costing of the Bar Course Aptitude Test (BCAT), which represented a particular shift in thinking by the BSB Board towards full cost recovery. This financial decision was later adopted by PRP as future policy for projects where fees and charges were to be assessed.
- (iii) Other regular inputs such as the regulatory risk framework and its later alignment with the corporate risk register were assisted by the BSB Business Support team.
- (iv) IT issues were mostly addressed through the GRA committee as risks to the programme.
- (v) The plan to implement an intranet (that would have supported the change programme) was delayed in favour of introducing a document management system to reduce paper storage and create space for the reduction in accommodation (to reduce the rental cost of the premises at High Holborn). Although there have been advantages in these courses of action, the phasing of the work coincident with the peak period of activity (autumn 2013) in the change programme was unavoidable but not ideal.

- 
- (vi) As noted in the August 2013 risk register, the Director of Central Services, the nominal Senior Supplier to the programme, resigned from the organisation and was subsequently replaced on the programme board by the Head of Finance, David Botha.

#### 4.7 Programme Overview

As noted in 4.6.4, the programme was divided into 5 stages to prepare BSB for the implementation of the RSF, whilst accepting that this in itself is an intermediary step to gaining a satisfactory rating against the RSF by the LSB. Rather than revisit previously reported purpose and findings (see stage reports) the intention in this section is to mention specific issues that the Executive and TRIP board may wish to consider.

##### 4.7.1 Stage 1 (Mobilisation) October 2012 to April 2013

- (i) Unusually (in the experience of the programme manager) there had been a considerable amount of “technical” preparatory work prior to the programme, in particular the RSF self-assessments against the standards set out by LSB. However, this had been somewhat confined to the GRA committee and the SMT of BSB and it became apparent that BSB staff, board and other committee members were not as clear sighted on the purpose of the programme. There is clearly a communication problem that could be resolved through technology that allows approved external parties to view documentary materials (such as project proposals, business plans and external communications) more easily. An extranet facility has now been proposed through Objective.
- (ii) Although having taken tentative steps towards project management, board and committee members were not all completely familiar with the oversight protocols that are commonly used and the associated language (as the programme manager was to discover!). In particular, there was difficulty for the programme board in defining the qualitative and quantitative benefits that users might expect to see; for example, the level of cost savings required, where the savings might come from; the competence rating expected from the oversight regulator. It is recommended that programme/project management training be extended to board and committee members (where appropriate) to help the executive with securing the optimum benefits for BSB in future projects.
- (iii) The combination of these and other factors and the importance of defining the success of the programme, resulted in some longer than anticipated delays in initiating the programme.
- (iv) Financial controls were also of some concern, as the BSB does not have a ready capacity to raise a new budget once the annual (if not 3 year strategic plan) expenditure has been approved. There were therefore some constraints in planning activities that were not already budgeted (eg training) although other budgets were not used creating a cash balance.

##### 4.7.2 Stage 2 (Discover) April 2013 – June 2013

- (i) The intention to involve all staff from the outset in both the skills audit and process mapping ensured good engagement although predictably some staff felt threatened by the changes proposed whilst others found it liberating. A huge amount of effort went into preparing for and recording all the regulatory processes, which staff must take the credit for. The BSB now has a set of documented processes that it can refer back to in demonstrating the changes made to processes and the efficiencies with which it conducts them. There is much to build on, in particular looking at collective functions such as the complaints process or risk assessment for the future.

- (ii) The skills audit, which led to the competency framework and the learning and development plan was particularly crucial to the programme and was efficiently carried out with the cooperation of staff in a relatively short-time frame. The use of on-line surveys is increasingly available and there is a good deal of potential to use these for a variety of uses in the future eg staff survey, consumer survey, engagement with the profession.
- (iii) The LSB finally formally responded to the BSB's 2012 self-assessment in May 2013 and agreed with its conclusion that work was only just beginning in this totally new regulatory environment.
- (iv) It became clear during the course of this initial part of the programme that workstream leads were not all demonstrating "completer-finisher" characteristics that would ensure "the job gets done".

#### 4.7.3 Stage 3 – (Deepen) June 2013 – January 2014

- (i) The deliberate focus of the Deepen stage was to envisage the new processes that would demonstrate a risk assessed, evidence based, outcomes focus approach and encapsulate the shift in emphasis from the reactive enforcement of code breaches to the pro-active prevention of regulatory failures using enforcement as a last resort.
- (ii) Developing the future landscape aimed to capture new thinking rather than be constrained to merely adjusting the established approaches. Although difficult, the teams grappled well with this, particularly in Supervision and Enforcement. On the other hand, devising new policy is the routine work for the regulatory policy team. The Education and Training team found this more challenging, particularly in view of the external reviews carried out in similar time frames to identify future needs of the legal professions. During this time the LETR reported and it was agreed with TRIP board that responding to this should form a separate programme of work outside TRIP, not least in view of the longer timescales required to do so.
- (iii) A particularly important facet of the new regulatory approach concerns the assessment of risk. During the Deepen stage, the risk consultant developed, refined and gained approval for the risk assessment framework that is in use in 2014. The board agreed an initial "cautious" approach to the evaluation of risk both in terms of current approach and for the immediate future until the systems are settled and evaluation has occurred.
- (iv) These future processes enable a clearer view of the internal restructuring that will be required. These considerations were aided by the coincidental revision of accommodation requirements, placing the BSB on to two floors. This resulted in those involved in regulatory action (supervision and enforcement) being accommodated on a single floor and the remainder of functions on the other floor, in redesigned working space. The closer working relationships that this has engendered have been noted and will enable a level of collaborative working that has not existed previously.
- (v) This stage also required a strong practical focus on turning staff development needs into training plans. The development needs had been identified by consultants in April 2013 as predominantly behavioural and requiring competence in collaborative working, knowledge sharing and a shift in customer service both within the organisation and with stakeholders. New working practices would also be supported by the introduction of a coaching style of leadership (through line management) and better performance management across the organisation. The

---

training in giving and receiving feedback would be particularly pertinent to these ends.

- (vi) The reshaping of the BSB also required some changes in job responsibilities and although there were no enforced redundancies, some staff elected to take voluntary redundancy. During the latter part of 2013, consultation with staff resolved these issues and some staff from Education and Training moved to Supervision. The LETR may provide more opportunities to expand migration as the transactional processes are automated or dispensed with and a greater focus is placed on capacity and capability within the BSB.
- (vii) The year and end of stage were completed encouragingly: at a presentation made to the LSB executive in December 2013. By the senior management team, there was considerable praise for effectiveness of the change programme and the cohesion of the senior team.

#### 4.7.4 Stage 4 – (Develop) January 2014 – March 2014

- (i) The Develop stage also began particularly well with the effective launch of the BSB Handbook, encapsulating the rules and conduct expected of barristers consistent with the RSF.
- (ii) Although the formal stage approval could not be finalised before January, much of the work of this stage had either accelerated ahead in the previous stage or was rapidly concluded. In bringing together the new and revised processes within the new structure the essential element now reverted to providing the training support to enable staff to put it into place.
- (iii) The training programme had emerged from the learning and development plan that had been defined by the skills audit at the start of the programme and demonstrates a key thread of the change programme in supporting staff at the right time with the skills they need. The Develop stage was largely taken up with the delivery of these training “packages”, which were managed within budget. The use of actors in role play was particularly well received.
- (iv) Staff feedback collected during the programme was reported and discussed with staff at sessions on 4 June to determine future needs and to inform the next phase of the learning and development programme. Staff were particularly keen to find a way in which to practise the feedback and listening skills they had learnt and consideration may be given to providing bookings with the actors for a limited period to facilitate this. The Director will be meeting with the training consultants over the summer to discuss next steps.
- (v) A further significant development occurred during this stage in the search for a meaningful dialogue with consumers. Meetings with a network of representatives of key consumer groups began and if successful, this is likely to bring significant gains in evidence of the outcomes listed in the Handbook and other intelligence from the “front line”.

#### 4.7.5 Stage 5 – (Deliver) March 2014 – June 2014

- (i) Having prepared and put everything possible in place, the final stage was designed to focus on delivery, a closer examination of the costs / value for money and assessment of what went well and what had not.

- (ii) The BSB had faced a number of significant challenges during the programme that included protracted discussions on the entity regulation authorisation application. The application has not only consumed staff resources that were needed to support TRIP but also caused an overspend in legal fees for advice and rule drafting. The overspend of legal fees has been consistent over the last two years and a) needs consideration with the LSB with regard to the value added from the extra costs engendered b) suggests that the BSB need to make greater provision for advice by one means or another.
- (iii) A significant step forward has been made on understanding the cost of regulation and the transparency with which it is reported (internally). The previously recorded effort on estimating the costs of the BSB processes has revealed the opportunity to compare the functional costs of regulation on a regular basis. A proposal to benchmark these costs was approved by both the SMT and TRIP board and was presented to the GRA and PRP committees for their consideration in April 2014. Proposed future action is recorded below (5.5) and includes discussion on whether to approach the LSB and or other regulators on comparing the cost of regulation per professional as a means to demonstrate value for money (in the public interest). These measures are in line with those taken by the health services regulators. This course is not without its risks, particularly in relation to conjecture as to whether there should be a single regulator of legal services.
- (iv) Previously expressed concern about the value of pro bono contributions made by barristers in support of BSB board, committees, tribunals and other advice, and the risks associated with it, had been on the basis of very rough estimates. On the basis of actual documentary evidence, to replace all pro-bono effort, a contingency sum of £750,000 would be required (although this may still be an underestimate.) At present the risk of needing to find an alternative solution to pro bono work is considered low and no action will be taken as regards a contingency. The main Board will return during 14/15 to the policy implications.
- (v) The programme was planned over a timescale of 18 months with some elasticity between stages. Despite the delayed start, the programme ran close to plan and will complete in June 2014 with a number of recommendations for future consideration and follow on work.

## 5 Programme Closure Tasks

### 5.1 Knowledge Transfer

- Programme documents are held on Objective at: Regulation BSB / Corporate Support / TRIP / Programme management / Programme documents.  
*NB. Information on the workstreams is now held by the respective teams in Objective folders.*
- Operational information is held in the form of Process maps and costs at: Regulation BSB / Corporate Support / TRIP / VFM and on the BSB web site in the form of enforcement and supervision strategies and operating procedures.
- Training documents are held at: Regulation BSB / Corporate Support / TRIP / Capacity & Capability

### 5.2 Programme Risk Management

5.2.1 The Programme Risks are available on Objective at: Regulation BSB / Corporate Support / TRIP / Programme Management / Programme Risk Registers.

5.2.2 In order to assist with the assessment of the impact of risks during the course of the programme, an overall risk profile is presented in Appendix D.

- 5.2.3 During the course of the programme each risk reported in the risk register was assigned a score between 1 and 25. The higher the score the higher the risk. Most of the risks extended over several months, during which time efforts were expended in mitigating the risks concerned.
- 5.2.4 Typically programme risks, if managed successfully, would depict a “bell” shape as the identification and realisation of risks initially increases the overall score. The profile should then show a gradual diminution as the mitigation strategies reduce the risks concerned. It would be unusual for all risks to disappear (and several still remain following TRIP), however, the profile shows acceptable consideration and management of the risks concerned. The programme board deserve credit for their attention to the monitoring of risk.
- 5.2.5 Although the risks cover a variety of issues across the whole organisation, their management followed a similar and familiar pattern as described in the steps below.
- i) Identification of the risk and the parties involved.
  - ii) Assign a risk owner
  - iii) Discuss possible solutions and resolution plans.
  - iv) Monitor progress
  - v) Make the ongoing risk assessment transparent.
- 5.2.6 The highest and most enduring risk throughout the programme concerned the ability of staff to cope with the change and the day to day business simultaneously. To their credit they have risen to the challenge positively in most quarters and many staff have put in significant effort whilst under pressure from other sources (SPACE, DMS, QASA and entity regulation in particular).
- 5.2.7 One area for future consideration is the relationship between risk to the programme and risk to the organisation (corporate risk), which may be different although governance pressures suggest they should be the same. Similar issues are likely to arise when assessing regulatory risk and the assessment of corporate risk, which may result in uncertainties for staff.
- 5.2.8 The remaining open significant risk is the continuing delay to the implementation of a shared facility for evidence collection and dissemination in support of regulatory activity.
- 5.2.9 The LSB rightly regard this is as fundamental to the evaluation of outcomes, a key focus of the RSF. Although there have been reasons for the delay, teams are now developing their own evidence bases by necessity that could a) make the convergence of these resources more difficult and b) prevent the sharing of knowledge in the form of evidence across the regulatory teams.
- 5.2.10 Without early resolution of this risk, BSB is jeopardising its target of achieving a satisfactory rating from LSB in response to BSB’s self-assessment in 2015. We all recognise that a minimum of a year’s data will be necessary to draw conclusions and take action on them. A new deadline for evidence collection alone will almost certainly coincide with the submission of the 2015/16 self-assessment, little more than a year away.
- 5.2.11 The final high risk rating of 16 reflects that a proposal for a research strategy is due to go to the BSB board in May. This is welcome but is only a first step towards establishing the mechanism for sharing evidence. The implementation of an intranet

---

was planned to fulfil this role but is not now due until late 2015. Alternative solutions must be found quickly and may not need to be technological.

5.2.12 Other risks relating to IT, although flagged throughout the programme, did not emerge as significant risks to the programme itself. However, there are indications that emerging needs for the future are unlikely to be catered for with existing systems. The linkage between legacy and the new systems that are introduced need to be justified, assured and cost effective. The assurance of IT systems has been raised at main Board level and is being addressed by the Chief Executive of the Bar Council.

### 5.3 Communication Management

5.3.1 One of the first tasks was to communicate why change was necessary, explain what this would mean and outline the plan and timescales. As there was no intranet, an internal mini web site was established to notify staff of news and progress. Having set this up, the communications officer resigned and a replacement was not forthcoming for some months.

5.3.2 The SMT approved a competition to find an appropriate name for the change programme, which attracted significant interest from staff. The winner, David Christopher, invented TRIP in recognition of the journey required.

5.3.3 An initial communications plan provided a very basic approach to intended communications that was supplemented with some additional content in July 2013 and approved by the TRIP board.

5.3.4 Whilst adequate for internal purposes, the plan was not intended to engage with the external world and this is now a challenge for the immediate future and the communications team.

5.3.5 It became clear that not all members of the BSB board were either conversant with the RSF self-assessment overseen by the GRA committee or with the purpose of TRIP and whilst this was addressed over the course of the programme, a clearer understanding of the purpose of TRIP will need to be included in the board development programme underway.

### 5.4 Lessons Learned

#### 5.4.1 What Went Well

Self-deprecation and frankness in the initial self-assessments of the BSB's readiness for the RSF have put it in a strong position to demonstrate the improvements and advances it has made and gives the oversight regulator confidence that work is making good progress.

5.4.2 Throughout the programme significant efforts were made to embed developments as new working practices (project management principles, process mapping and costing, collaboration and knowledge sharing).

5.4.3 The skills audit and competence framework enabled staff to see what they needed to do to make the transition to the new ways of working and allowed them to play a part in determining the training they would need.

5.4.4 The formation and development of the Regulatory Knowledge Group (following the seminar series for the middle management team) and this group now has the potential to become the formulators of new regulatory practice.

5.4.5 The reform of Supervision and Enforcement process and function.

## 5.4.6 What went less well

The list below is a summary of the key lessons learned.

Lesson No	Lesson Description	Suggested future action	Programme Impact (High, Medium, Low)
1.	Consistent Task completion against plan	All work to be part of action plans agreed by SMT and work leads held accountable by the Director.	Medium
2.	Delays to putting in place a system for gathering, sharing and analysing evidence of regulatory compliance. <b>Sequence of events as follows:</b> IT strategy (Sept 2012) to implement an intranet for sharing information. IT strategy revised (June'13). Paper to SMT proposing a "face to face" approach to evidence sharing. Risk to programme recorded in Sept '13 highlight report. TRIP highlight report March'14 records proposal to shift to DMS. TRIP highlight report April'14 shows a high risk resulting from slippage against the LSB Action Plan.	<b>Event timetable</b>  Implementation end 2013 (low priority)  Implementation March – Sept 2014 Aug 2013 – deferred to consider document management system (DMS). Amanda Thompson developing route map to commence Jan'14. DMS implementation Spring 2014. Intranet further delayed to end of 14-15 year. DMS full-implementation delayed and teams establishing their own databases (no shared information resource established). Note also the parallel with the need for information sharing on risk noted in consultants (Influence Inc.) report.	High
3.	Recruitment of key staff	The action plans define when key areas of work are to be delivered (quite often on the basis of a new recruit or a replacement). Sufficient lead time needs to be built into the recruitment timetable to ensure resources are in place to enable the work to start on time. There are also concerns about the quality of candidates for lead roles and respective salary expectations. HR should consider being more active in ascertaining market rates (directly or indirectly), which requires BSB to provide early warning of a vacancy.	High



Lesson No	Lesson Description	Suggested future action	Programme Impact (High, Medium, Low)
4.	Stakeholder communications	<p>Although there are risks in communicating in advance the regulatory changes made, there is no doubt that we are acting reactively in not continuing to communicate to the profession the benefit of the changes that the RSF will bring. The successful launch of the Handbook has set an expectation that now needs to be followed through in communicating the RSF.</p> <p>It is important that when the communication does take place, it is handled with all stakeholders in mind.</p> <p>There is a further transition of responsibility for communications impending and external communications should be an early target for the new manager.</p>	Medium

### 5.5 Post Programme Tasks (see also post-TRIP Action Plans)

Task	Owners	Notes
Follow up on the next stage of the learning and development plan and feedback from staff.	Simon Thornton-Wood and Oliver Hanmer.	Meeting with staff on 4 June and follow on sessions with consultants in June/July.
Consider the benchmarking proposals suggested in the paper (from R.Hammond) and agree a course of action with the committees concerned.	Vanessa Davies / Viki Calais	Both GRA and PRP have considered the paper.
Review the reports provided to the programme and confirm what if any should continue.	Vanessa Davies	Absence and diversity reporting are two potential candidates that could be secured through a service level agreement.
Develop stronger links with the consumer groups to assist with gathering evidence of the outcomes of regulation.	Amanda Thompson	Critical relationships have been established that need to be developed on both sides.
Evaluate risk, evidence and outcomes collaboration between teams. Develop an escalation protocol where existing and emergent risks increase.	Vanessa Davies	There is a strong thread that links these activities whilst being spread across the BSB. Clear governance, decision making responsibilities and accountabilities required (made explicit in performance management.)

Task	Owners	Notes
Recommence training (staff and board/committees), particularly on aspects of risk assessment.	Ewen Macleod / Amanda Thompson	Some initial essential awareness training was provided to key staff but this needs to be followed up as the risk manager takes responsibility.
Continue board and committee development to include awareness of TRIP.	Tim Robinson / Vanessa Davies	The board have embarked on a programme of development that will no doubt continue and will need to cascade to committees post- reorganisations.
An external communications plan is required to identify the groups to be communicated with and in what format.	Amanda Thompson	
Consider the distribution of business analysis skills within teams across BSB.	SMT	The additional support for business and systems analysis in Central Services is limited. SMT to consider whether it would add value to employ additional capacity.
Review recommendations below.	TRIP board	

## 5.6 Programme Closure Recommendations

- 5.6.1 The programme board is asked to accept this final report as meeting the requirements of the programme with the proviso below and to approve closure of the programme.
- 5.6.2 To note the action plans presented separately by the workstream leads that are viewed as necessary to achieving the LSB assessment of competence at the “Satisfactory” level and to agree how these should be monitored and/or reported until 2016.
- 5.6.3 To note the communications plan for reporting to stakeholders.
- 5.6.4 With the exception of the above tasks, the Programme has achieved the objectives identified in the Programme PID and described in section 4 of this document.
- 5.6.5 The Programme Board is requested to formally note Programme closure on the understanding that the outstanding tasks will be addressed by those named above.

## 5.7 Post Implementation Reviews

- 5.7.1 There will be a review of the programme at the forthcoming BSB board meeting on 24 July 2014.

---

**6 Programme closure - Report Approvals**

<b>Approved By</b>	Vanessa Davies	(Programme Sponsor)
<b>Approved By</b>	Patricia Robertson, QC	(Senior User)
<b>Approved By</b>	Tim Robinson	(Senior User)
<b>Approved By</b>	Rolande Anderson	(Senior User)
<b>Approved By</b>	David Botha	(Senior Supplier)
<b>Approved By</b>	Richard Thompson	(Programme Assurance)
<b>Approval Date</b>	18.6.14	
<b>Prepared By</b>	Roger Hammond	(Programme Manager)

**Appendix A: TRIP Financial statement for business year 2013-14**

**Appendix B: Programme deliverables report**

**Appendix C: Regulatory process costs (April 2014)**

**Appendix D: Programme risk profile**

**Appendix E: Action plans**



## Appendix A

## TRIP Financial statement – to end March 2014 (12 months)

Description	Actual YTD £	2013-14 budget £	Variance YTD £	Comments
1. Change manager	100,317	78,000	-22,317	Additional cost of recruitment.
2. Skills audit exercise (staff)	0	0	0	Task completed March 2013. No further work with staff planned within TRIP.
3. Governance support resource (Committee adjustments to accommodate change programme)	20,958	20,000	-958	P/T for full year and likely to be extended. Cost tapered for remainder of the year as the part-time takes effect.
4. Additional support role in PCD for legal knowledge management	37,190	46,000	8,810	
5. FOI / knowledge management post (Re-positioned as Regulatory Knowledge Manager)	57,310	46,000	-11,310	Additional cost of recruitment.
6. Outsourced legal drafting for Entity Regulation	73,195	20,000	-53,195	Further expenditure expected.
7. Additional research funds	0	15,000	15,000	Request for research funding on evidence gathering to go to the board in May.
8. Risk analysis post (Re-positioned as Regulatory Risk Consultant)	110,110	65,000	-45,110	Risk consultant contract extended and overspend incurred.
9. COIC and other contracts officer	28,473	46,000	17,527	Saving due to later than anticipated appointment.

Description	Actual YTD £	2013-14 budget £	Variance YTD £	Comments
10. Regulatory capacity building <sup>1</sup>	18,594	21,000	2,406	
11. Qualifications – change management project <sup>1</sup>	0	20,000	20,000	This work will be incorporated into the LETR change programme.
12. TRIP internal communications	0	10,000	10,000	Funds set aside for an away day staff briefing at start of regulatory change, which was deferred.
13. TRIP programme consultancy	0	15,000	15,000	This work will be incorporated into the LETR change programme.
14. Allocated training budget	25,406	25,000	-406	Some of the budget shared with training Central Services staff
<b>Total</b>	<b>471,553</b>	<b>427,000</b>	<b>-44,533</b>	

<sup>1</sup> Not included as part of the in-year bid made during 2012-13, but included as part of the 2013-14 budget bid

## Appendix B

## Deliverables recorded in the Programme Initiation Document (Dec 12)

Deliverable	Quality characteristics	Date completed	Comment
Programme Initiation Document	Meets Prince 2 reporting requirements and is approved by the Programme Board	Approved April 2013	Delayed release due to concerns on governance
Handbook	Approved by the BSB Board and LSB	Approved 21 March 2013 23 July 2013	Approval delayed by LSB
Evidence database	Supports outcomes assessment to enable, amongst other things, the incidence of case histories to inform precedents for fair regulatory enforcement		Delayed; NB may not be one single database.
Risk assessment framework	Indicates the risk profile of work undertaken by barristers enabling transparency between the regulator and the regulated, clearly showing the profession where potential breaches of regulation may occur	Approved by the BSB board at their October 2013 meeting	The document is “live” and will continue to change. The reference copy is the version at the launch of the Handbook 6 <sup>th</sup> Jan 2014.
Supervision strategy	The strategy makes clear BSB’s intended regime indicating frequency and focus of monitoring	Approved by the BSB at their Sept 2013 board meeting	Core elements on BSB website January 2014
Enforcement strategy	The strategy makes clear to the profession what action will be taken against breaches of the rules and code and other expected outcomes and how this action will be enforced	Approved by the BSB at their March 2013 board meeting	2014 version displayed on the BSB web site (Feb 14)
Qualification (probably modular) in regulation	Accredited by an academic institution	Removed	Change control approved at July TRIP board meeting to pursue academic studies in regulation through an alternative route (RKG).
A skills audit of staff engaged in regulatory work	Assessed by an independent consultant	Completed and reported to the TRIP board April 2013	

## Part 1 – Public

Deliverable	Quality characteristics	Date completed	Comment
BSB Learning and Development plan linked to the skills audit	In coordination with HR and their competency work a training and development plan will be established	Completed and reported to the TRIP board at their meeting Sept 2013	
Process maps for current (Pt 1) and future (Pt2) workstreams	The process maps will be recorded and standardised to be used in the value for money analysis and kept as a BSB archived record	Process maps for 142 regulatory processes used during financial year 2012-13 (Pt1) stored as pdf on the shared database (July2013). New process maps (Pt 2) completed December 2013	
Value for money models for BSB regulation	BSB staff involved in the development of these models will be consulted to determine their preferred ways of working. The options (that matrix working will raise) developed by staff will be presented to the programme assurance team and the programme board, who will make the final decision.	Preliminary organogram presented to TRIP board Nov 13. SMT updated organogram forwarded to LSB at their request.	Staff structure and responsibilities completed 31 Jan 2014
Benchmark costs of regulation - a report on BSB costs in comparison with other regulated professional bodies	A cost of regulation that demonstrates that BSB is not viewed as an outlier in comparison with other professions	Reported to TRIP board April 2014	
BSB staff Equality and Diversity data pre and post change programme	The principal purpose of these surveys is to understand the composition or profile of staff E&D and how this may have been affected by the change programme. This is a standard survey routinely carried out by HR.	Review of year Apr13 to Mar14 reported to TRIP board April14.	No impact as a result of TRIP reported.



## Part 1 – Public

<b>Deliverable</b>	<b>Quality characteristics</b>	<b>Date completed</b>	<b>Comment</b>
A staff opinion survey will capture staff opinion prior to and after the change programme to record successes, concerns and issues	The baseline staff survey (2010) was critical of the leadership at BC and BSB and in view of the imminent change programme is likely to impact heavily on staff. Staff contribution is essential to the development of the new workstreams and will markedly influence the future effectiveness of regulation at the BSB. The staff survey will indicate where progress has been made or effort is needed to improve working relationships.	Survey delayed in view of the significant changes across BSB / Bar Council.	A staff survey was reported in March 2013 and will be repeated in the autumn of 2014.
Systems report - The IT audit that preceded the programme will be used to assess the “fitness for purpose” both during and after the change programme	Early risks to the programme identified concerns in compatibility and security of systems and this is expected to lead to a further survey to identify future systems requirements for which a budget can be established. IT are commissioning a security audit in 2013 in order to secure accreditation in 2014 (IT Strategy 031212).	Review presented to the BSB board in March 2014	
Stage plans	Detailed plan of the work in each stage approved by the Programme Board	Mobilise, Discover, Deepen, Develop, Deliver completed	
Stage and Final reports	Report written on completion of each stage of the programme approved by the Programme Board	Mobilise, Discover Deepen, Develop - complete	Final report attached
Change management web site	Branded (TRIP – The Regulatory Improvement Programme) with a ready identifier and focus for all change work	Completed Jan 2013	
Communications plan	Plan identifying the internal and external stakeholders showing communication preferences	Updated Sept 13	
Lessons learnt log	A record of the learning during the course of the programme	Reported in stage and final reports	
Programme risk log	An ongoing record of risks presented during the change programme and reviewed by GRA committee.	Final risk register merged with corporate register May 2014	Running register maintained



Appendix C - Cost of processes April 2014

Dept	Process	Old	Process cost			
			Modified	New		
PCD						
PCD1	Ad hoc data requests			15567		
PCD2	Allocation of files	11084				
PCD3	Appeals from warning and fines			3861		
PCD4	Bankruptcy	626				
PCD5	Barrister checks			14619		
PCD6	Budget monitoring			2484		
PCD7	Fitness to practise			2200		
PCD8	Committee meeting admin			7232		
PCD9	Enforcement (Complaints) database			9040		
PCD10	Disciplinary tribunal decisions			990		
PCD11	Entering information on sentencing db				CLOSED	2610
PCD12	Expenses and fee claims			920		
PCD13	Client complaints			3425		
PCD14	Forthcoming complaints				CLOSED	1400
PCD15	Information line	27676				
PCD16	Office holders meeting	4596				
PCD17	Internal (Own motion) complaints			10538		
PCD18	Managers meetings			7632		
PCD19	Staff meetings			9860		
PCD20	Performance reporting	10176				
PCD21	Subject access requests			2195		
PCD22	External (3rd party)complaints			84940		
PCD23	User feedback survey	11751				
PCD24	Imposing administrative sanctions			9572		
PCD25	Interim suspension and disqualification			2131		
PCD26	Appeals of tribunal decision			6480		
PCD27	Chambers inspection				CLOSED	2378
PCD28	Disciplinary tribunal process			268,200		
PCD29	Determination by consent			13175		
PCD30	Investigations process			232,470		
PCD31	Web site updates			3888		
PCD32	Policy work			86180		
PCD33	Project work			153776		
PCD34	Referalls to Supervision					1
PCD35	Intelligence reporting					1
PCD36	Reporting obligations					1
PCD37	QRSC					1
	<b>Sub-total of costs</b>	<b>65909</b>	<b>951375</b>	<b>4</b>	<b>Total</b>	<b>1017288</b>

Reg Policy

RP1	Budget monitoring	1206				
RP2	Drafting rules guidance	12953				
RP3	Equality impact assessment	8794				
RP4	Expenses claims	3678				
RP5	Identify policy issues for development	21126				
RP6	Large scale research	6538				
RP7	Large scale comms	42452				
RP8	Policy project management	79087				
RP9	Policy progress	61609				
RP10	Standards committee	26860				
RP11	Major rule changing application					25532
RP12	Medium rule changing application					243
RP13	Queries					106365
	<b>Sub-total of costs</b>	<b>264303</b>	<b>132140</b>	<b>Total</b>	<b>396443</b>	

Supervision

S1	Chambers monitoring check	400
S2	Chambers monitoring programme	6810
S3	Supervision committee	1388
S4	QASA policy development	75542
S5	Supervision policy development	25300
S6	QSA back end IT	1130

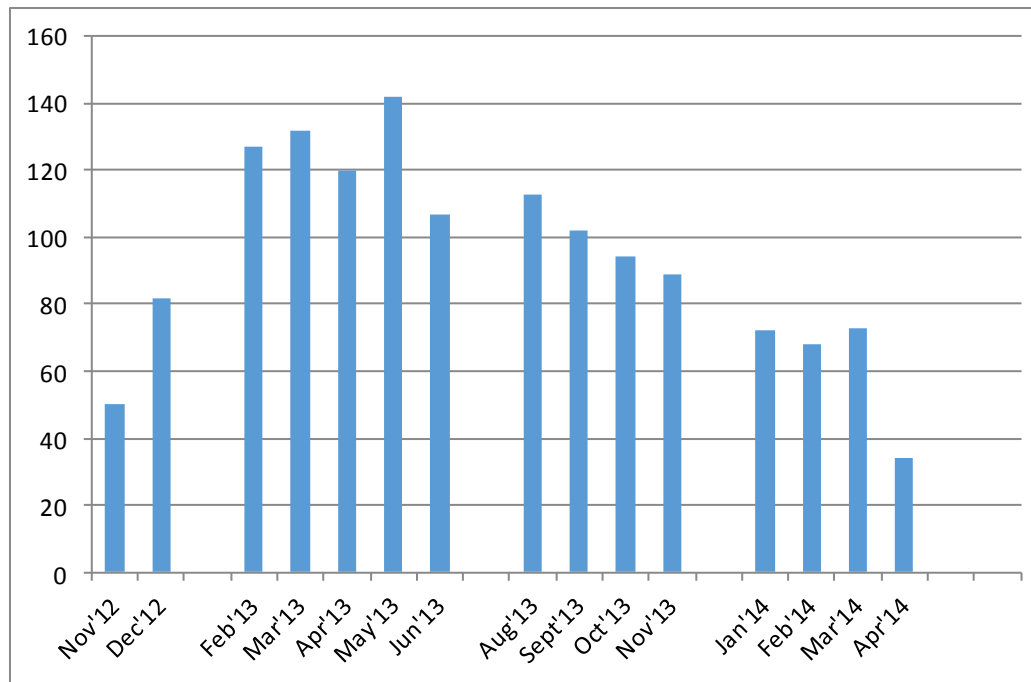
S7	Budgeting	2584				
S8	Knowledge sharing	434				
S9	IT systems	25628				
S10	Judicial training	7163				
S11	QASA series	540				
S12	Ops planning	5354				
S13	Research planning	3643				
S14	QASA compliance monitoring			690		
S15	QASA independent assessors			2061		
S16	QASA assessment & verification			46650		
S17	QASA monitoring and data reviews					
S18	QASA compliance enforcement			20750		
S19	QASA appeals			10457		
S20	Entity authorisation			51978		
S21						
S22	Pupillage monitoring	13020				
S23	EPP spot checking	1296				
S24	New practitioners grant extension	477				
S25	NPP	3827				
S26	NPP spot-checks	682				
S27	Referral of non-compliance	2889				
S28	Updating new practitioners record	4605				
	<b>Sub-total</b>	<b>155916</b>	<b>26796</b>	<b>132586</b>	<b>Total</b>	<b>315298</b>
<b>Education &amp; Training</b>						
E&T1	BPTC on-line query	6160				
E&T2	Certificate of standing	14620				
E&T3	Credit transfer certificate	2183				
E&T4	Gen application	8118				
E&T5	Update stage book	1409				
E&T6	Update stage documents	7570				
E&T7	Update provider details	72				
E&T8	Update course lists	368				
E&T9	Stage panel prep	11184				
E&T10	Stage panel meeting	6696				
E&T11	Bar exam transcripts	1037				
E&T12	BPTC on-line enrolment	628				
E&T13	Review board prep	195				
E&T14	Update handbook	1212				
E&T15	Exam board meeting	1226				
E&T16	Review board meeting	203				
E&T17	EPP extension	3400				
E&T18	EPP waiver	1680				
E&T19	Euro lawyer	420				
E&T20	Legal academic	84				
E&T21	Licensed access	1160				
E&T22	NPP ext	850				
E&T23	NPP waiver	324				
E&T24	Qualified foreign lawyer	1719				
E&T25	Reduction in pupillage - solicitor	507				
E&T26	Qualified registered european lawyer	99				
E&T27	Registered euro lawyer admission	18				
E&T28	Solicitor applicn	1979				
E&T29	Temporary admission	27				
E&T30	Applicn to practising rules comm	4700				
E&T31	Applicn to pupillage panel	2500				
E&T32	Review ICC decision	665				
E&T33	Licensed access OISC	540				
E&T34	Appeal to visitors	6096				
E&T35	Review qualifications committee	2827				
E&T36	Setting up a visit	19095				
E&T37	Monitoring visit report	5395				
E&T38	Setting up a visit	1613				
E&T39	Validation report	1305				
E&T40	EE training	5694				
E&T41	EE reporting of providers	8858				
E&T42	BPTC sub-comm mtg	4840				
E&T43	Providers mtg	6430				
E&T44	EE fees and expenses	16641				
E&T45	BPTC conference	4898				

E&T46	Request for review	538	
E&T47	Format & proof read	2586	
E&T48	Deleted		
E&T49	Exam paper confirmation	2010	
E&T50	BPTC handbook amendments	7620	
E&T51	Overseas exams	382395	
E&T52	Speedwell scanning	720	
E&T53	Reasonable adjustment	706	
E&T54	Archiving panel applicns	25	
E&T55	Pupillage handbook	529	
E&T56	Pupillage monitoring		transfer
E&T57	Pupillage sub comm meeting		closed
E&T58	Qualifications committee	1830	
E&T59	E&T committee	1190	
E&T60	Pupillage archiving panel	25	
E&T61	Applicn as a provider	1280	
E&T62	CPD invoices	1623	
E&T63	CPD annual payment	26774	
E&T64	CPD appeal process	324	
E&T65	CPD course accreditation	71345	
E&T66	CPD fee waiver	378	
E&T67	CPD filing	2160	
E&T68	CPD input	733	
E&T69	CPD on-line db	500	
E&T70	CPD sub committee	2612	
E&T71	CPD 1 off accreditation	2511	
E&T72	Course registration - CPD	13994	
E&T73	EPP spot checking		transfer
E&T74	EPP extension		closed
E&T75	EPP programme		closed
E&T76	Issuing of full qualification certificate	3442	
E&T77	Issuing practising certificates	3722	
E&T78	New practioners granted ext		transfer
E&T79	New practioners programme		transfer
E&T80	NPP spot checks		transfer
E&T81	Pupillage registration	6679	
E&T82	Referral of non-compliance		transfer
E&T83	Signing off 1st 6	1673	
E&T84	Signing off 2nd 6	1068	
E&T85	Updating new practitioners record		transfer
E&T86	Updating completion of pupillage courses	141	
<b>Sub-total</b>		<b>708378</b>	<b>Total 708378</b>
<b>BSB total cost of processes</b>			<b>2437407</b>
	Cost of old processes	1194506	
	Cost of modified processes	978171	
	Cost of new processes	264730	



**Appendix D**

**Risk profile Nov 12-Apr 14**  
**Total risk score vs time scale**



BSB 240714

BAR  
STANDARDS  
BOARD

REGULATING BARRISTERS





**Appendix E TRIP Action plan 2014-16**

**Work stream – Outcomes Focused Regulation**

**Work stream lead – Amanda Thompson**

**Introduction**

The original self-assessment was “needs improvement and work has started recently”. By now our aim is to be “undertaking improvement and work well underway”.

A significant amount of work has been undertaken – the new Handbook has been promulgated and has been well received, anecdotally at least. Other key objectives were to introduce new processes to gather evidence and assess risk. We have developed the risk system although it is yet to become operational – the risk action plan deals more specifically with that aspect. We have started this year on the work required to become more systematic in how we collect and use the information we have available to us now (as part of the Research Strategy). This will lead on to a more targeted plan for acquiring further information or undertaking new research ourselves. We will also look at the information collected by others to see what may be useful to us, thereby avoiding duplication of effort. We have been making efforts to target our communications to ensure those regulated by us understand and accept our approach to regulation. We have started on a stakeholder engagement programme so we understand better what consumer needs are.

The table below sets out the activities that will take place between now and 2016 in order for the BSB’s outcomes focused regulation activity to be deemed ‘satisfactory’ against the criteria set out in the LSB’s Regulatory Standards Framework.

	Activity	Lead responsibility	Mar 15	Oct 15	Comments (eg Risks/constraints)
Regulatory arrangements deliver the outcomes that consumers need	Having developed and implemented a policy development framework that provides a systematic way of deciding upon outcomes, aligning with risks and evaluating whether the desired effect has resulted from policy initiatives <ul style="list-style-type: none"> <li>Presented to Board July 2014</li> <li>Finalisation of the framework (by Sep 2014)</li> <li>Further skills programme (Sep-Mar 2014)</li> </ul>	AT	Yes		Finances being available to buy in resources to either teach staff how to undertake various aspects (eg intervention logic, cost benefit analysis) or undertake specific aspects (eg mathematical modelling)
	Policy framework embedded into everything that we do	AT		Yes	
	Policy framework updated to reflect risk framework developments	AT		Yes	Dependent on progress of risk assessment workstream
	Outcomes thinking built into specific workstreams: <ul style="list-style-type: none"> <li>Entity authorisation</li> <li>LETR</li> </ul>	OH STW	Yes	Yes	In line with LETR programme plan, some topics/workstreams will be more advanced than others by October 2015
There is clear evidence and analysis to justify any detailed rules	Policy development framework (as above, builds in requirement to use evidence and robust analysis, including how risk informs use of rules, ie alignment to risk assessment framework)	AT	Yes		
	Board papers show clear analysis of issues (including which risks are being managed) and use of evidence	Bar Standards Board itself		Yes	Board should be satisfying itself that it is seeing sufficient evidence and analysis to provide necessary justification

	Activity	Lead responsibility	Mar 15	Oct 15	Comments (eg Risks/constraints)
Those regulated understand and accept approach to regulation	External communications strategy in place to explain rationale for all BSB action (as per communications strategy previously agreed with TRIP Board)	AT	Yes		Comprehensive range of activity required here. We will have the strategy in place by this time. Indicators of a growing understanding an acceptance will be put in place
	Review of consultation responses to ascertain degree of understanding by respondents	AT		Yes	This is one example of an indicator of how we might see that the regulated community understands why we are regulating and accept it.
All members of staff and Board understand the organisation's approach to focusing regulation on the consumer and public interest	Policy framework in place (and use of particular tools such as Legal Services Consumer Panel's consumer interest tool embedded within it) <ul style="list-style-type: none"> <li>Toolkit of relevant essential elements included in policy framework documentation available to staff (Sep 2014)</li> </ul>	AT	Yes		Training will be delivered to all staff and be available to all, including Central Services staff.
	Risk framework operational	EM			As per Risk action plan.
	Internal communications strategy	AT	Yes		
High quality, up to date, reliable evidence from a range of sources about how all groups of consumers need and use the legal services the AR/LA regulates	Stakeholder engagement strategy in place	AT	Yes		
	Stakeholder engagement starting to deliver	AT		Yes	The stakeholder engagement work will be starting to gain traction during 2014. We expect it to be delivering higher quality input from stakeholders by 2015 but it depends on ability of stakeholders to engage with us given their own pressures.

	Activity	Lead responsibility	Mar 15	Oct 15	Comments (eg Risks/constraints)
	Research strategy and plan in place (including looking at information others produce)	AT	Yes		
	Research plan underway (including how information/research/knowledge gathered will be disseminated to all who need to use it)	AT		No	We will not have high quality evidence available across all areas in which we will need it by this date but we will have a clear plan in place and will have made reasonable progress. We are dependent on resources being available and developing good relationships with others in order to use their data/information in order to make progress here.
There is evidence about whether outcomes are being achieved	Policy development framework - the framework has an evaluation phase required of all policy initiatives which is specifically included in order to build in the collection of evidence about whether or not the anticipated outcomes or impacts are in fact occurring.	AT		A qualified yes	Given the time lag between completion of implementation of a policy/project and when you might see results, we may not have a lot of hard evidence. Supervision will start to give indicators and perhaps also evidence within this timeframe. We should however have good indicators in most areas.
	Handbook review design and methodology agreed (by Dec 2014)	EM	Yes		
	Handbook review commences (Q4 of 2014/15)	EM	Yes		
Consumers have confidence in regulation	Stakeholder engagement strategy in place to provide feedback on confidence in BSB's regulation	AT		Yes	
	Research strategy in place which includes seeking evidence of consumer confidence	AT	Yes		As above re Research Strategy

	Activity	Lead responsibility	Mar 15	Oct 15	Comments (eg Risks/constraints)
	Research plan underway	AT		Yes or No	If priority is placed on obtaining information on consumer confidence by the Board when specific activities are agreed then this will be a “yes”. If the Board does not prioritise this work above other aspects then it may not be achieved, although we will have a date by which we would seek this kind of information.
Regularly reviews and updates its regulatory arrangements based on evidence	Policy development framework designed to allow this to happen.	AT	Yes		Implementation as above.

### How will we know we have got there?

The intention is to become “satisfactory” by 2016. Success indicators would be:

- Research Plan in place linked to Regulatory Objectives and Risks with research being undertaken in line with that plan
- Stakeholder engagement built into all BSB work at appropriate levels or times to ensure consumer needs understood
- Evaluation plans in place for all major policy projects
- Policy framework in place and being used routinely for all policy issues
- Use of policy framework evident in all Board and Committee papers
- Feedback from those regulated by the BSB shows that BSB approach to regulation is understood
- Consumer feedback sought on degree of confidence in BSB regulation



**Appendix E - LSB Action Plan – Update on Risk  
Lead: Ewen Macleod, Head of Regulatory Policy**

**Where we are now**

The original self-assessment was “needs improvement and work has started recently”. By now our aim is to be “undertaking improvement and work well underway”.

A significant amount of work has been undertaken – the Board has approved a Risk Assessment Framework and since January the Supervision and PCD departments have been operating in a risk focused way, gathering evidence that can contribute to future policy development, but there remain important links with the research strategy, the policy framework and wider organisational information management to ensure that we are systematically using evidence of risk in everything we do.

We currently have consultants from InfluenceInc who are adapting their maturity model to enable us to assess our current state and to develop an action plan for future changes – this will be key to developing an evidence base that we are approaching “satisfactory” by 2016

The table below sets out the activities that will take place between now and 2016 in order for the BSB’s risk activity to be deemed ‘satisfactory’ against the criteria set out in the LSB’s Regulatory Standards Framework.

Before the RSF update is given to the LSB this action plan will be updated – the SMT will reconsider the actions required in the light of the InfluenceInc report.

## Where we expect to be by March 2015 / October 2015

The table set out below shows the actions that will be taken:

RSF Criteria	Activity	Lead responsibility	By Mar 2015	By Oct 2015	Comments (e.g. Risks/constraints)
Formal, structured, transparent and evidence-based approach to identification and mitigation of risks across the whole range of entities and individuals	InfluenceInc to adapt their maturity model for use by the BSB and submit a report on current readiness of risk systems and framework	EM	Yes	Yes	SMT to agree action plan <b>July 14</b> , likely to be significant further work needed to embed a risk-based approach across the organisation
	Analysis of our data usage in the organisation, highlighting how current sources of information can be used better and shared across the organisation to contribute to better decision-making. Focus on identifying trends as well as using existing data	AT	Yes	Yes	
	Introduce new information management infrastructure where necessary	AT	No	Yes	Assume budget bid for 2015-16
	Recruitment of permanent Regulatory Risk Manager	EM	Yes	Yes	In post by Sept 14 latest
Risk analysis focuses predominantly on consumer detriment, including those in vulnerable circumstances	Updated risk assessment framework launched	EM	Yes	Yes	A lot of the work here will be shared with Strategy and Comms – in particular analysing information management in the organisation
Evidence that approach to risk works in practice	Ensure that risk is fully captured in the policy framework	AT	Yes	Yes	
	Re-assessment using the maturity model to evidence progress	EM	No	Yes	



## Part 1- Public

RSF Criteria	Activity	Lead responsibility	By Mar 2015	By Oct 2015	Comments (e.g. Risks/constraints)
Approach to evidence gathering for risk assessment enables the identification of future trends as well as current issues	Re-launch of risk framework following information audit	EM	Yes	Yes	
	Scope initial review of the Handbook so that we can review outcomes/rules in the light of emerging risk assessment evidence	EM	Yes	Yes	
Relevant staff and Board members understand the reasons for risk assessment, how it informs other aspects of activities. Staff share best practice and lessons learned in a structured and effective way	Training for Board members	EM	Yes	Yes	To be scoped following InfluenceInc report
	Additional training for RKG and staff, focusing on behaviour change needed, as identified by the InfluenceInc review in advance of formal update/refresh of framework	EM	Yes	Yes	

### How we will know when we have got there?

The intention is to have achieved 'satisfactory' by 2016. Success indicators would be:

- The organisation will be collecting the data and evidence that it needs to make fully informed risk-based decisions;
- Systems will be in place to manage information flows through the organisation so that all departments have access to the information they need, all staff can update the knowledge base of (potential) risk factors;
- The risk framework is fully embedded across all functional areas;
- Board and staff have the competencies that they need to perform their respective roles properly;
- All new policy developments are properly focused on evidence and risk;
- Existing regulatory arrangements are being systematically reviewed in the light of risk evidence and emerging trends



**Appendix E TRIP Action plan 2014-16****Work stream – Supervision****Work stream lead – Oliver Hanmer****Introduction**

Since the original self-assessment of ‘recognise that this needs to be done but work has not yet started’ there has been significant progress in the development of the BSB’s supervision regime. The initial focus on supervision is at the entity/chambers level but we will build up capacity to undertake supervision action in relation to high risk individuals as well as employed barristers in the longer term.

A supervision strategy is now in place which uses risk assessment to determine the supervisory response to Chambers. Key risks have been identified against which Chambers will be measured and which will be used to inform supervisory activity and this activity will be used to inform future iterations of the broader BSB risk assessment framework. We have in place information sharing protocols across the organisation and with relevant external stakeholders such as the Legal Ombudsman and the Legal Aid Agency.

We have undertaken resource planning to consider the capacities and capabilities required to deliver risk based supervision and have recruited a number of new staff with specific technical skills required for the new regulatory approach and in response to the risks identified. Flexibility has been developed within the wider Supervision Department to manage peaks in supervision activity.

The initial response to the revised approach to regulation with a greater emphasis on supervision rather than enforcement action has been well received by the profession and engagement has been constructive and positive.

The next 12-18 months will be a period of embedding that new approach, gathering data in relation to risk and compliance and establishing the relationship between the risk assessment framework and supervision. Further, as the BSB becomes a regulator of entities, there will be the opportunity to test the new approach to regulation to the authorisation and subsequent supervision of new entities.

A further key consideration over the coming months will be the assessment of the value for money of the new regulatory approach. In short, does supervision represent greater regulatory and financial value than the strict enforcement regime adopted previously.

The table below sets out the activities that will take place between now and 2016 in order for the BSB’s supervision activity to be deemed ‘satisfactory’ against the criteria set out in the LSB’s Regulatory Standards Framework.

Criteria	Activity	Lead responsibility	By March 2015	By October 2015	Comments (eg.Risks/constraints)
Supervision activity is underpinned by an evidence-based understanding of market segments and provider	Development, implementation and modification of the risk assessment framework and evidence gathering mechanisms to determine future supervision priorities	Oliver Hanmer	Yes		Recruitment of risk manager. Development and implementation of the Research and Evidence strategy
	Initial risk assessment of all medium and high impact Chambers	Chris Nichols	Yes. 200 high impact chambers involved in Supervision Return July – September 2014.  200 medium impact chambers involved October to December 2014		IT presents the greatest risk but mitigation is in place with contingency arrangements should the core database not be able to deliver the required IT infrastructure
	Approximately 50 supervision visits undertaken to chambers and entities during 2014/15 to assess risk in detail and agree actions for improving controls.	Chris Nichols	Yes		The number of visits can be increased (or if necessary decreased) depending on entity uptake. However, we are unlikely to drop below 50 visits given the contingency arrangements in place for additional resource support

Criteria	Activity	Lead responsibility	By March 2015	By October 2015	Comments (eg.Risks/constraints)
	Develop arrangements for the risk assessment and subsequent supervision of individual self-employed practitioners	Oliver Hanmer		No (from 2016)	'satisfactory' assessment not contingent on this work being in place. Resource implications are significant. Dates may change depending on evidence and risk assessment maturity and as a result of other supervision priorities
	Develop arrangements for the risk assessment and subsequent supervision of the Employed Bar	Oliver Hanmer		No (from 2017)	'satisfactory' assessment not contingent on this work being in place. Resource implications are significant. There is a risk of regulatory duplication that will need to be managed. Dates may change depending on evidence and risk assessment maturity and as a result of other supervision priorities

Criteria	Activity	Lead responsibility	By March 2015	By October 2015	Comments (eg.Risks/constraints)
Supervisory activity is determined by reference to identified risks	On-going programme of supervision visits of Chambers and entities determined by risk assessment and evidence gathering	Chris Nichols		Yes	<p>There is a need for greater clarity on the use of the risk assessment framework across the organisation and in particular how it will be used to inform supervision priorities and decisions</p> <p>Resource planning to be undertaken following 14/15 supervision to assess whether additional capacity and capabilities are required</p>
	Supervision priorities determined according to risk assessments undertaken through supervision returns and visits	Chris Nichols	Yes		Potential resource constraints in 14/15 depending on the level of risk identified and the take up of entity regulation. Contingency arrangements to be put in place to mitigate the risk

## Part 1 – Public

Criteria	Activity	Lead responsibility	By March 2015	By October 2015	Comments (eg.Risks/constraints)
	Thematic supervision reviews undertaken in line with strategic risk priorities	Oliver Hanmer	Yes		The resources available to devote to a thematic review during 2014/15 will depend to a certain degree upon uptake of entity regulation. This might limit the extent of the review but should not cause undue delay.
Supervision activity is informed by data from the Legal Ombudsman	Review of the effectiveness and range of information sharing arrangements and the feedback loops in place internally and externally	Chris Nichols	Yes		IT development will need to facilitate and support this.
Supervisory activity facilitates innovation, change and commercial freedom	An assessment of the supervision regime and entity regulation and its impact on innovation within the market – ie what types of model are seeking authorisation, is our risk assessment stifling or facilitating innovation and change within the legal services market	Oliver Hanmer		Yes. From April 2015 with a view to formal consideration by October 2015	

## Part 1 – Public

Criteria	Activity	Lead responsibility	By March 2015	By October 2015	Comments (eg.Risks/constraints)
	Entity regulation commences	Oliver Hanmer	Yes		Pending decision of the LSB on application and resolution of outstanding policy issues
Supervisory activity is adequately resourced to provide good quality, consistent decisions without backlogs	IT systems for supervision will be reviewed in the light of 12 months of supervision activity and modifications made. In particular, an assessment of reporting/data collection and presentation against risks and market sectors.	Chris Nichols		Yes (June 2015)	Wider organisation risks associated with IT delivery
	Further resource planning undertaken as part of the 15/16 budget cycle to ensure that supervision is adequately resourced and has the right capacities and capabilities. A key consideration will be the resource requirements arising from entity regulation.	Oliver Hanmer	Yes		



Criteria	Activity	Lead responsibility	By March 2015	By October 2015	Comments (eg.Risks/constraints)
Regular senior management and Board monitoring of effectiveness and value for money of supervisory activity leads to improved processes	Annual review of the governance, scheme of delegations and structure of supervision.	Oliver Hanmer	Yes		
	Value for money assessment – review of the cost of regulation (supervision and enforcement) and what changes and trends can be identified. Further financial planning beyond 2016 to be able to set out more accurately the operational cost of supervision activity (per Chambers, per risk area).	Oliver Hanmer		Yes (Measures put in place September 14 for an initial review at the end of 12 months supervision activity in April 15)	Appropriate IT support to capture information on cost of supervision activity

### What does 'satisfactory' look like?

By 2016 the BSB's approach to supervision will have operated for two years. Success indicators would be:

- A clear and evidenced based articulation of the risks associated with Chambers and entities with reference to the sector of the market within which they practice and their business model;
- Evidence of supervision operating successfully in practice by both responding to information received and proactively gathering information to determine the need for targeted regulatory action;
- A clear understanding within the BSB (and externally) and demonstrable evidence of the relationship between the risk assessment framework and supervision and how one informs the other;
- A risk profile for all medium and high impact Chambers and BSB authorised entities;
- An IT system that supports the delivery of supervision and which holds reliable data that can be manipulated to produce a range of reports to inform the BSB's risk assessment framework and wider strategic aims;
- Evidence that the BSB's approach to supervision and regulation of entities supports innovation and change within the market (ie we have authorised a range of business models and have encouraged Chambers to develop their own approach to risk mitigation);
- The Supervision Department is resourced by skilled staff with the technical expertise to carry external and internal confidence;
- There are effective information sharing arrangements in place which enable the Supervision Department to take evidenced based decisions on regulatory action and which mean that the BSB can respond proactively;
- There is clarity of the boundary between enforcement and supervision and effective arrangements in place to manage that boundary (ie some means of initial assessment of whether information received warrants supervision or enforcement action and subsequent reassessment of that decision throughout the life cycle of that regulatory action);
- The BSB has in placed means of assessing the cost of supervision activity and therefore its value for money;
- Supervision is supported by appropriate levels of corporate governance in that the Supervision Committee provides effective support and oversight and the Board has strategic awareness of the supervision agenda.

**Appendix E TRIP Action Plan 2014-16****Work stream – Enforcement****Work stream lead – Sara Jagger****Where we are now**

In the original self-assessment presented to the LSB, the BSB's enforcement system was categorised as 'undertaking improvement and work is well underway' and the PCD committed to raising the assessment category to 'satisfactory' by the end of 2013. Having reviewed activities to date against the enforcement action plan, we are satisfied that we have achieved 'satisfactory' in this area.

To improve published policies and guidelines for stakeholders, we have reviewed and revised all policies and guidance in line with the new risk-based, outcomes-focussed regulatory approach and those that are relevant are publically available on the website. The Legal Knowledge Officer, recruited to the PCD in January 2013, has developed an internal interactive microsite on which all policies and guidance underpinning the enforcement system can be found and new documentation has been developed in light of changes in the introduction of the BSB Handbook.

To fulfil our aim of employing a wide range of effective, proportionate enforcement tools, we have enhanced staff decision making powers to ensure that decisions are taken at the lowest level and the launch of an annual training programme for PCD staff has ensured that they are well trained and have the appropriate levels of experience to take enforcement decisions. The implementation of a contract between BTAS and the BSB, monitored by the Contract Management Officer recruited in 2013, to whom we provide support, has led to improvements in the administration and management of the disciplinary processes. As planned, appeals from disciplinary tribunals have been transferred to the High Court and supporting guidance has been produced.

The enhanced reporting facilities of the new enforcement database, introduced in August 2013, have been instrumental in monitoring and improving staff performance against the KPIs. Steps towards establishing mechanisms for assessing value for money, have been taken with the completion of process maps for all enforcement processes. The maps provide the initial data for determining the costs of enforcement activity on a per case/complaint basis. In accordance with the aim of being 'fast and fair', we have developed an Enforcement Strategy and introduced risk matrices to inform decision making. We now meet the requirements that enforcement action is evidence-based and targeted. The Supervision Strategy, developed in 2013, has allowed us to set up procedures and systems for the exchange of intelligence information with Supervision and the Operational Support Team act as an effective central point of liaison between the PCD and the Supervision, Professional Practice and Strategy and Communications Departments.

**Where we expect to be by March 2015 / October 2015 / March 2016**

The table set out below shows the actions that will be taken to maintain 'satisfactory' though to March 2015 and for the next assessment March 2016

<b>RSF Criteria</b>	<b>Activity</b>	<b>Lead responsibility</b>	<b>By Mar 2015</b>	<b>By Oct 2015</b>	<b>Comments (e.g. Risks/constraints)</b>
Published policies and guidelines are written in plain language that enables others to understand the criteria for deciding to take action	A comprehensive review of the public information available about the enforcement system	Operational Support Team Manager	Yes		Risk: Costs – there is no specific budget allocated at present
	Implementation of a communications plan for stakeholders	Head of Strategy and Communications	Yes		
	Enhance enforcement knowledge sharing facilities by developing the microsite and providing access to internal stakeholders	Operational Support Team Manager	Yes		Risk: The current CIO is the only staff member in the Bar Council with technical knowledge of Wordpress.
Disciplinary processes follow best practice	Review of the DT Regulations	Investigation and Hearings Team Manager	Yes		Constraints: Priority given to entity regulation may cause delays in progressing and completing this project in 2014/15.
	Reviewing the standard of proof for professional misconduct	Head of Professional Conduct	Yes	Yes	Risk: Resistance to such a change from the SDT

## Part 1 – Public

RSF Criteria	Activity	Lead responsibility	By Mar 2015	By Oct 2015	Comments (e.g. Risks/constraints)
Wide range of effective, proportionate enforcement tools; staff with appropriate experience/training; powers provide incentives for compliance	Explore options for research on whether current enforcement tools act as an incentive for compliance	Head of Regulatory Policy		Yes	Risk: Insufficient capacity within research programme.
	Agreement of final policy on the publication of findings	Head of Professional Conduct	Yes		Constraints: Now probably dependent on the DT Regulations Review.
	Continue targeted PCD training programme to ensure staff are appropriately equipped with specialist knowledge	Operational Support Team Manager	Yes	Yes	
Regular senior management and Board monitoring of effectiveness and VFM	Prosecutor Remuneration Project	Investigation and Hearings Team Manager	Yes		
	Development of enhanced user feedback systems through the creation of an online feedback facility	Operational Support Team Manager	Yes		Constraints: IT identifying appropriate cost-effective software. Risk: Reliance on one member of staff to carry out work.
	Develop mechanism to establish the costs per case for complaints	TBA – Operational Support Team Manager/S&C	Yes		Risk: Inaccurate calculations due to the absence of a proper time recording system.
	Research into mechanism for enforcing disciplinary fines	Investigation and Hearings Team Manager	Yes		
Decisions to take (and not to take) enforcement action are evidence based and use reliable sources	Review of the enforcement strategy and risk based approach to ensure they are in line with the BSB risk framework	Head of Professional Conduct	Yes		

## Part 1 – Public

RSF Criteria	Activity	Lead responsibility	By Mar 2015	By Oct 2015	Comments (e.g. Risks/constraints)
	Set up an effective enforcement regime for BSB licensed entities (decision making at lowest level)	Head of Professional Conduct	Yes		Risk: The PCD is unable to achieve to the current timetable due to a lack of skills and resources.
Fast and fair	Review the role of the complainant in the enforcement system	Assessment Team Manager		Yes	
	Commission research into the results of the User Feedback Survey	Operational Support Team Manager/Strategy and Communications (Research)		Yes	Constraints: Costs – money included in the research budget is limited and not specific to this research although financial assistance is available.

**How we will know when we have got there?**

The intention is to maintain 'satisfactory' through to 2016. Success indicators would be:

- Published policies and guidance are in plain language for all stakeholders measured by improved feedback about public information
- User Feedback Survey Report 2015/16 contains improved feedback from users = evidence of a 'fast and fair' system
- Standard of proof changed from criminal to civil
- Browne Review recommendations fully implemented
- BSB/BTAS working effectively - very few identified breaches of the service standards
- Improved performance against the KPIs = evidence of a 'fast and fair' system
- Increase in the percentage of cases decided at executive level in 2015/16
- Research into whether or not current enforcement tools act as an incentive for compliance completed and any recommendations implemented
- Accurate costs per case/complaint available – favourable benchmarking comparisons
- Maintenance/improvement of success rate at disciplinary tribunals = decisions based on reliable sources and evidence
- Low rate of upheld appeals either against the imposition of administrative sanctions or disciplinary findings = decisions based on reliable sources and evidence

**Appendix E - TRIP Action plan 2014-16**

**Workstream – Capacity & Capability**

**Workstream Lead – Simon Thornton-Wood**

**Introduction**

The capacity and capability of the organisation to deliver and to sustain a transformed approach to regulation was originally assessed as ‘needs improvement, work has started recently’. There has been considerable focus over the past year on developing an effective organisational structure, on instituting a training and development regime, and promoting engagement with the Regulatory Standards Framework across the organisation. Teams were well prepared for the introduction of the revised approach on 6 January 2014, with significant investment having been made in key new roles to underpin risk, knowledge management and change management.

The programme of embedding new ways of working continues, and is being extended across staff teams and committees. This includes the consolidation of the independence of regulation, led by a Board that is focused in its role and a senior management team that has strengthened its leadership capability.

A thorough review of governance has enabled the transition to staff-led decision-making, systems and protocols have been established and are now being implemented.

A skills audit undertaken early in 2013 provided the basis for developing an organisation-wide Competence Framework, which in turn supports the introduction of performance management and a Learning & Development Plan that addresses both technical and behavioural competences.

The regulation of training for the Bar has, in many respects, developed in line with the wider regulatory approach, though clear direction for reform in this area was established later, following the Legal Education & Training Review (LETR, June 2013). A Post-LETR Plan now complements the wider change process.

New systems have been put in place to underpin knowledge management and sharing, although important challenges lie ahead in embedding these critical capabilities. A Research Strategy is being finalised, to direct resources effectively toward improving understanding of the regulated market.

## Part 1 – Public

RSF Criteria	Activity	Lead responsibility	By Mar 2015	By Oct 2015	Comments (eg.Risks/constraints)
Clear and consistent leadership at Board and senior management level that ensures that the whole organisation has strong consumer engagement and consumer focus. Consumers are confident that regulation is independent	Review Board and Committee capacity and capability in light of structural review	VLD		Jul 2015	Supporting nominated Board member lead (Tim Robinson)
	Review effectiveness of delegation across committees	STW		Sep 2015	Independent review?
Appropriate levels of budget and staffing linked to the nature of the market(s), entities and individuals regulated. Required skill sets are defined and linked to key challenges facing the organisation, to the regulatory objectives and to the AR/LA's regulatory outcomes – which are achieved in practice. Organisation's structure enables effective decision-making by appropriate delegation of powers to staff	Complete cycle of implementation and review of staff delegation for authorisation and waiver applications	STW		Jul 2015	



## Part 1 – Public

RSF Criteria	Activity	Lead responsibility	By Mar 2015	By Oct 2015	Comments (eg.Risks/constraints)
	Establish and embed annual Learning & Development planning cycle, linked to evidence of regulatory requirements and skills analysis and drawing upon staff feedback from the initial programme; including support for handling entity regulation, handling evidence, . Balance training for all with specific training where needed, both technical and behavioural. Focus in next year on analysis and problem solving; regulatory risk management; project management and legal knowledge for non-legally qualified staff.	STW and OH		Jul 2015	Linked to performance review cycle  Dependent upon HR engagement
	Roll out the agreed competency framework across all roles in the organisation	STW and heads for each department	Dec 2014		Dependent upon HR engagement

## Part 1 – Public

RSF Criteria	Activity	Lead responsibility	By Mar 2015	By Oct 2015	Comments (eg.Risks/constraints)
	Develop the sharing of knowledge across the organisation by sustaining a regular programme of relevant activity	STW	Mar 2015		Regulatory Knowledge Group (RKG)  Substantial evidence of the programme and impact will be available by Oct 2015
	Review Central Services capacity & capability in light of front-line restructure and first year of implementation	STW	Mar 2015		Dependent upon coordinated CS engagement and embedded strategic approach
	Review anticipated resource reallocation toward supervision and away from other areas, after full financial year of operation, and reflecting the reorientation of regulatory approach	AT		Yes	May be too early in the cycle of regulatory activity to be able to demonstrate significant change
	Assess flexibility of resource structure to accommodate innovation and adapt to risk and other regulatory requirements	AT		Yes	Looking for case studies that will demonstrate our capacity to adapt

RSF Criteria	Activity	Lead responsibility	By Mar 2015	By Oct 2015	Comments (eg.Risks/constraints)
Evidence-based understanding of the market(s) it regulates and realities of operating it. High level of knowledge management analytical skill at all levels in the organisation drives culture of transparency, continuous improvement and embeds best regulatory practice from legal regulation and other industries	Implement Research Strategy	AT	Oct 2014		
	Agree and implement Knowledge Management Strategy	AT	Yes		
	Embed knowledge management systems and processes across the organisation	AT		Yes	Dependent upon IT engagement
	Establish Post-LETR Plan change process, bringing Education & Training into alignment with the wider regulatory approach	STW		Yes	Expectation that we will have completed the equivalent of the TRIP 'discovery' phase and settled on options for key elements of the training pathway

**What does 'Satisfactory' look like?**

- The roles of all staff are clearly defined within a structure that underpins the regulatory process.
- A programme of staff development is established, informed by analysis of requirements and coordinated staff appraisal.
- Board and Committees have a good understanding of their role, and the skills and confidence to oversee and support the work of the executive team
- The knowledge requirements of the organisation are systematically identified and addressed.
- Research is focused upon addressing gaps in understanding of the regulatory environment.
- Resources are aligned to regulatory need and are deployed effectively in light of changes in the market
- All areas of regulatory activity are aligned in their operation

**Appendix E - TRIP Action plan 2014-16****Workstream – Value for Money – Vanessa Davies, Lead from July 2014****Context**

(See defined expression of value for money below, taken from the PID; 5.6.2)

Value for money is has been adopted as one of the BSB’s five core values as an organisation. It not currently a defined responsibility within the BSB although many of the concepts are embedded in the Business Support team’s work. The work initiated through TRIP is new and represents both opportunities and challenges to the BSB. The cost of regulation, including the components apportioned by the Bar Council, are all adding pressure for scrutiny of where money is being spent and on what.

Through the work on mapping and costing its processes, the BSB has a means to relate its activities to its costs in a variety of ways that can provide insight into the efficiency of regulation. Furthermore, work undertaken by the health services regulators is indicating the potential to benchmark costs across services. There is potential to learn from this experience and provide stakeholder scrutiny of comparative costs across legal service regulators. The value for money workstream was not part of the regulatory standards framework and consequently reference is drawn to the programme initiation document to provide context to the activities planned.

<b>Activity</b>	<b>Reference to Programme Initiation Document</b>	<b>Lead responsibility</b>	<b>By Mar 15</b>	<b>By Oct 15</b>	<b>Comments (eg. Risks/constraints)</b>
1. Analysis of process costs across BSB has been enabled through the mapping of regulatory processes by the teams concerned. The new activity proposed here, is to record the costs of the processes year on year, to show the variances occurring within BSB as a result of regulatory changes (enabling internal benchmarking).	Ref. 2 Success criteria – slowing the trajectory of the cost of regulation	Amanda Thompson	Yes		Results of analysis to be confirmed before budgets agreed for 2016. Analysis prior to budget predictions.  A further annual cycle of costs will not be available before Mar 16

Activity	Reference to Programme Initiation Document	Lead responsibility	By Mar 15	By Oct 15	Comments (eg. Risks/constraints)
<p>2. Pilot the use of the frequency notation in the process maps as a way of tracking costs (quarterly basis proposed). The new activity here requires the selection of high cost or important processes and for the teams to record how many times these processes are actually used (eg. per month). This will enable both the teams and business services to track resource utilisation and costs over time. The advantage of this approach is monitoring is closer to real time (rather than forecast or retrospective expenditure analysis).</p>	<p>Ref. 5.4 Providing supportive information on income and expenditure relating to the programme and assisting with the development of activity cost models for BSB.</p>	<p>Amanda Thompson</p>	<p>Yes</p>	<p>Yes</p>	<p>This is a simple way of tracking resource expenditure on key processes over time, against expectation. This may be helpful for example in establishing the cost profile of QASA or authorisation.</p>
<p>3. Whilst Activity 1 was concerned with individual process cost, BSB may wish to consider alternative cost comparisons by function, which is of a collaborative nature involving more than one team (eg. cost of complaints, cost of authorisation). The collation of this data is likely to be required to demonstrate to stakeholders that our costs are fair and proportionate and could potentially be used as comparators with other regulators.</p>	<p>Ref. 4.12 A cost of regulation that demonstrates that BSB is not viewed as an outlier in comparison with other professions</p>	<p>Vanessa Davies</p>	<p>Yes</p>	<p>Yes</p>	<p>Functional comparisons have been found to be useful in benchmarking across health service regulators. However, this will require a mini-project across teams to establish the process maps and costs. It is expected that an example (the complaints process) may be feasible by March 2015 and that others could follow as they are agreed.</p>

Activity	Reference to Programme Initiation Document	Lead responsibility	By Mar 15	By Oct 15	Comments (eg. Risks/constraints)
4. Calculate the costs of other activities (such as IT, HR, Finance and Facilities in Central Services) that are cross charged to the cost of regulation. The new activity here is to monitor these costs over time and make more transparent the reasons for annual variations in the cost of regulation.	Ref 5.5.2 There are also business issues relating to the future ways of work that present options for BSB to consider in its mission to deliver “value for money” as a regulator. This will necessitate for example; the inception of contracts for supervision and the consequent service level agreements to ensure the quality and efficiencies of delivery	Amanda Thompson	Yes	Yes	Discussions are likely to be activated over the use of the PCF and the requirement to develop infrastructure in Central Services. The cost breakdown of central service functions is already available but needs to be made transparent.
5. Cost of regulation per professional. The Health Services Regulators (HSR's) have established a methodology for the benchmarking of regulatory functions (for example; compliance, fitness to practice) that enables all regulators to be compared on a level playing field. The new activity is for the BSB to pursue this cost indicator either with other regulators as a common	Ref. 4.12 A cost of regulation that demonstrates that BSB is not viewed as an outlier in comparison with other professions	Vanessa Davies	No	No	Item 72 of the LSB Business Plan for 2014-15, records the LSB research proposal that covers research into the costs of regulation (and also benchmarking consumer needs). Whilst discussion on collaboration in this area can proceed forthwith, it is unlikely that BSB will have reached agreement on the mechanism and delivery in this time frame. A more likely expectation would be 2-3 years.

Activity	Reference to Programme Initiation Document	Lead responsibility	By Mar 15	By Oct 15	Comments (eg. Risks/constraints)
interest group or via the LSB on behalf of all legal services regulators.					
6. Monitor the delivery and cost of contracts against the targets set in the SLA's that the BSB has negotiated with external suppliers and providers. These contracts and SLA's have not previously existed and therefore represent new activity.	Ref 5.5.2 There are also business issues relating to the future ways of work that present options for BSB to consider in its mission to deliver "value for money" as a regulator. This will necessitate for example; the inception of contracts for supervision and the consequent service level agreements to ensure the quality and efficiencies of delivery	Amanda Thompson	Yes	Yes	The contractual arrangements are relatively new and little comparative data will be available. However, ongoing monitoring of the costs against the levels of satisfaction agreed in the SLA's would be a truly useful gauge of "value for money".



**Given the plans above, where would we expect to find ourselves in March 2016?**

By March 2016, there would have been one full set of process cost data (for business year 2014-15) that would provide comparison of costs of regulation. A further set would be anticipated in May 2016. After year 1, the BSB may have had the opportunity to further finesse the cost reporting to reflect in year cost variance as well as defining the cost of broader cross team functions such as policy development or risk management. PRP have expressed interest in overseeing this analysis.

The scope to demonstrate other efficiencies could be realised through contract review and the effects of ongoing governance re-structuring and will need to be considered in relation to other priorities.

There may also be progress on wider cost comparison across legal services although realistically the time frame for this is 2-5 years and is likely to coincide with a review of a single regulator.

**“Value for money”** is defined here for the purpose of this programme as the notional and perceived value of the regulatory activity undertaken by BSB on behalf of barristers. It is expressed here through two considerations:

- a) the constituted costs of staff salaries, overheads, on-costs, purchases, service provision, committee input and any other cost elements expended by BSB in the pursuit of its regulatory activities. As a whole this represents the actual cost incurred in BSB regulatory business and will be compared with the figure quoted in the annual report for 2012. However, there have been doubts expressed by the Treasurer of the Bar Council on the comparability of the figures quoted in the annual reports due to accounting practises that have necessarily varied since BSB was established. Consequently it is expected that the programme will reveal a more accurate representation of the real costs incurred by BSB compared with the “notional” cost reported in the annual report.
- b) barristers have relatively little “hard data” other than the published costs in the annual reports for guidance on the cost of regulation that they contribute to. Some barristers have expressed concern about the continuous escalation of costs and their unwillingness to continue to fund additional expenditure. There is therefore a perception issue that needs to be contextualised and this will be met through both clarification of where the money is spent and through comparison with the regulatory costs published by other professional body regulators. To enable comparison it is proposed to express the cost of regulation per practising professional as the benchmark comparator.



## Policy development framework

### Status

For discussion and decision

### Executive Summary

1. A draft policy development framework has been created with the aim of having policy analysis undertaken in a more systematic and consistent way throughout the BSB. This is an agreed activity in this year's business plan contributing to strategic Aim 4. It is also relevant to the Regulatory Standards Framework.
2. The draft framework was developed by a small team. It has been discussed by the Senior Management Team, the Equality and Diversity Committee, Operational Management Team and Regulatory Knowledge Group. It is now in a settled enough form to be shared with the Board itself. Following this discussion, further work will be undertaken to implement the framework, including appropriate training for staff, the Board and Committees.

### Recommendations

3. It is recommended to the Board that it:
  - a. **Agrees** with the framework as outlined and supports its introduction,
  - b. **Identifies** any major concerns ("showstoppers") within the framework that must be addressed before it goes any further,
  - c. **Agrees** what the Board would expect to see when this framework is operating successfully, ie what does "success look like",
  - d. **Agrees** to engage with the framework and its implementation to ensure the agreed hallmarks of success are achieved by the Board and its Committees, and
  - e. **Identifies** any particular support or training needs the Board considers should be addressed for Committees and the Board itself.

### Background

4. The Executive team has been developing a framework with the aim of having policy analysis undertaken in a more systematic and consistent way throughout the BSB. This is an agreed activity in this year's business plan contributing to strategic Aim 4 which is to "become more evidence- and risk-based in all we do...". It is also relevant to the Regulatory Standards Framework and particularly outcomes focused regulation where some of the indicators that a regulator is at the top of the scale are:

*Regulatory arrangements deliver the outcomes that consumers need; there is clear evidence and analysis to justify any detailed rules; those regulated understand and accept approach to regulation;*

*All members of staff and Board understand the organisation's approach to focusing regulation on the consumer and public interest.*

5. A draft framework was developed by a small working group then discussed by the Senior Management Team. The Operational Management Team also considered the framework at its meeting on 28 April 2014. Further refinement has been undertaken by the Regulatory Knowledge Group, particularly looking at the skills we have and those we may need to acquire in order to make the framework operate effectively. The framework has also been discussed at the Equality and Diversity Committee. Amendments from all of these fora have been incorporated into the framework.

### Comment

6. In devising the framework, we have drawn on good practice in policy analysis and development, using components from various models to develop a process for the BSB. It is designed to offer a method of policy analysis that is systematic but flexible. It is one way in which we can draw together a number of different strands of work we have been undertaking: from evidence gathering to the regulatory risk framework. It gives an “end to end” of policy analysis and development so includes the full life cycle from identification of a possible problem to consideration of whether or not an intervention has worked in practice. The framework is described in more details in Annex 1 and shown as a diagram in Annex 2.
7. The framework can be applied to big policy projects but can also be scaled back for smaller matters. It can also be readily applied to the development of operational policy – the problem still needs to be clearly defined, an option chosen to manage the operational issue. Implementation is required as well as evaluation of it to make sure the operational policy has done what we intended it to do.
8. One of the key aspects of the framework is the creation of clear decision points. This requires an identification of the correct decision maker. Often that will be the Board itself. If it is not the Board, it will be because the Board has decided that the decision should be taken at another level be it Executive or perhaps also within Committees. The extent to which committees should be decision makers regarding BSB policy is a matter that the Board will no doubt return to as its governance review progresses.
9. The framework does require a more disciplined approach to policy making than we have demonstrated across all parts of the BSB in the past. It will also require discipline on the part of everyone interacting with the Executive as the policy is used. To some extent the policy requires a series of different roles for all participants. Put very simply, the Executive becomes the body which primarily operates to develop policy, applying this framework. The Board will be the recipient of the results of that analysis, then providing the necessary challenge and expertise to what is proposed. The Board therefore needs to consider what it will expect to see if the policy has been robustly developed so it can fulfil this vital role. Most committees (ie those with a policy type role rather than operational committees) will become an invaluable part of making sure that the problem is defined correctly and options are well thought through. Sometimes that may mean that the beginning of a policy seems to take longer but the benefits of getting the questions right should not be underestimated.
10. The Board is asked to review the steps in the framework and identify any areas of concern and raise them for discussion at the Board meeting. We have time to make corrections before introducing the framework across the BSB.

11. The Board is also asked to consider what it thinks “success” would look like. What will the Board expect to see if this framework is being applied well? This is likely to affect how committees operate as well as the Board itself. So, Board members are also asked to agree to engage with the framework and its implementation to ensure the agreed hallmarks of success are achieved by the Board, its Committees and the Executive. Specific training needs may be identified as part of this discussion and would be welcome. We know that the Executive will need to acquire some new and specialist skills across the

### Next steps

12. The intended next steps are as follows:

Actions	Timeline
Finalise framework documentation	End of August 2014
Develop implementation/training materials and training timetable	End of September 2014
Develop training plan for acquisition of additional skills and identify areas of untapped expertise in Executive	End of September 2014
Training for staff, Board and Committees on framework undertaken	October – December 2014
Policy framework fully in use across BSB	January 2015

13. As outlined above, we recognise that supporting tools or explanation will be necessary to enable staff to implement the framework. There is also some work to do to align the framework to the project management methodology in use within the BSB.

### Resource implications

14. There are no specific demands in terms IT or HR in relation to the framework. There is money available in the budget to undertake training where it is needed and can be used to support the training plan once it is devised. That is likely to be an ongoing programme that will be worked into the Learning and Development plans for the organisation. The framework is in part aimed at improving knowledge management across the organisation by encouraging discussion with colleagues and involvement with stakeholders throughout the process.

### Equality Impact Assessment

15. The framework itself raises no equality issues. It has been considered by the Equality and Diversity Committee and amended to make it clear that equality issues are to be considered at all stages. It could be argued that the framework is a key way of ensuring that equality issues are properly assessed and taken into account in the future.

### Risk implications

16. There is a risk that the framework will not succeed if people do not engage with it and apply it. Within the Executive team that risk is seen as quite low as the framework has been welcomed by the staff who have so far been involved in its development.

**Impacts on other teams / departments or projects**

17. All BSB teams have been involved in the development of the framework and will continue to be involved.

**Consultation**

18. No consultation is required or planned.

**Regulatory objectives**

19. The framework enables us to systematically demonstrate and describe how we are addressing and balancing the regulatory objectives in all the policies that the Board makes.

**Publicity**

20. No publicity is required or planned.

**Annexes**

21. Annex 1 – Policy development framework explanation

22. Annex 2 – Diagram of policy development framework

**Lead responsibility:**

Amanda Thompson

## The policy development framework

1. The framework has four main stages:
  - Problem definition
  - Developing options
  - Implementation
  - Evaluation
2. The “gateways” or decision points between each stage are also very important.

### Stage 1: Problem definition

3. An issue may emerge from almost anywhere. It could come out of the Regulatory Risk Framework. It might come out of a piece of research, conducted by the BSB or some other organisation. It might come from a topic in the media. There are many more issues than we will have resources to address. We need to prioritise and ensure that we are targeting our activity where it is really needed. In order to do that, we need to first understand what the particular problem is. So, the first stage of policy analysis is to define the problem.
4. The first stage is made up of 3 distinct elements:
  - Define the problem
  - Assemble some evidence
  - Create a policy proposal (ie what the problem is and why we should do something about it).
5. When we define the problem, we need to take care that we are not stating the issue too narrowly so that we are in effect restricting our choices or consideration of the ways in which a problem might later be addressed. For example, drawing on a completely different sector, “there is too little shelter for homeless families” is too narrow a definition of the problem, as it may lead to an implication that “more shelter” is the best solution. A better problem definition might be “too many families are homeless”, which allows for a greater diversity of solutions. Thinking hard about what the problem really is, is an important first stage. In creating that definition, we expect people to be drawing on evidence to explain why it is a problem so that we can assess the scale and scope of it in order to inform our decision as to whether to do something about it or not.
6. So, these elements of defining the problem, assembling evidence and creating a policy proposal may need to be repeated several times until this is well done.
7. Several factors should be taken into account during this stage:
  - Explaining the evidence you are relying upon is a vitally important step.
  - Internal stakeholders (eg other BSB departments, BSB committees) should be used to help define the problem – another team may have insight that could help.
  - Equality and diversity considerations are a core part of the process, the equality team should be consulted and should interact with other BSB departments/teams during this stage.
  - Being clear on who the decision maker will be important as it sets the scene for how the following work is conducted.

- Deciding who the policy owner will be is also important. It may be that the policy is developed by one person but another department or person is responsible for operating the solution.
- Many tools may be helpful when trying to define a problem, particularly the regulatory risk framework.

### Stage 1 Gateway

8. Once we have a problem that is properly defined and we understand why we might need to do something about it, someone needs to decide if, in fact, we will do anything about it. Depending on the type of issue, that decision might be taken at Board, Director or Head of Department level.
9. It is of course also possible that the decision maker may send the proposal back for further problem definition work to be done.

### Stage 2: Developing options

10. If the decision maker decides that work should continue on the problem as defined, a number of elements are then involved in order to develop options to address the problem. Again, this is not a linear exercise but may require a good deal of reiteration as the analysis proceeds. Repetition of all aspects may be required to come up with a set of robust options.
11. The elements are:
  - Identify alternative responses/solutions (construct the alternatives)
  - Project the outcomes (what do you expect to see happen when you implement each option?)
  - Determine how to measure impact (How do you think you'll know if the policy has had its required effect? How much of an effect do you think the policy will have because it may not solve all of the problem? How will you measure that impact? What impact might the implementation of the policy have in its own right? Are there any unintended consequences we can foresee or we should watch out for? Think specifically about the equality duty here and the impact on equality of each of the options, using the EIA process as necessary.)
  - Select the criteria (What criteria will you use decide which outcome is the best one? Is cost the overriding driver, as in we wouldn't contemplate any outcome that increases our costs by x%? Do we want the most cost effective outcome or the most efficient one? Do we want the outcome that has the lowest compliance cost associated with it?)
  - Confront the tradeoffs. It is very unlikely that an option will stand out as the only or clear option to take to achieve an outcome. There will be trade offs between various options. These need to be addressed and weighed up. The criteria will assist in doing this. The equality duty will also be highly relevant in confronting trade offs.
12. There are some aspects that must be built in to this consideration. They include:
  - The public sector equality duty and how we demonstrate we are observing it
  - The growth duty
  - Consideration of the regulatory objectives
  - How we are meeting the better regulation principles



13. Again, there are a lot of factors to take into account during this stage and many tools or approaches that may prove helpful:
- Many tools may be useful, for example risk analysis, statistical techniques such as regression analysis, cost benefit analysis and intervention logic. The number and type of techniques that may be employed will be relative to the type of issue defined and whether it is an operational policy (ie largely internal) or more wide reaching matter.
  - Evidence should be used and assessed throughout this process. We need to be sure that we have information that supports the analysis and will help us decide what to do.
  - Internal and external consultation may be needed at many points throughout this process. It is less and less likely to be the case that we will do all of this work, decide upon an option and then consult on a proposal that looks very fully formed. Early engagement will help shape options, identify useful evidence and will strengthen the analysis that is done.
  - Enough work should be done as the options are developed in order to produce a business case for implementation if that is needed. A business case will especially be needed for the project gateway process if the proposal has not previously been planned or budgeted for.
  - As the options become clearer, thinking about possible implementation issues may be useful in order to understand the “trade offs” that might be relevant.
  - The option of doing nothing should also be considered to see what the comparative effects may be.

### Stage 2 Gateway

14. Once a set of options have been developed the decision maker needs to decide which option to pursue. This decision maker is highly likely to be the same person/part of the organisation that decided whether to proceed with the option development phase. The options could be put to the decision maker in a number of ways. It could be as a recommendation from the team/person that has carried out the option development. It could be by presenting the range of available options and leaving to the decision maker to select the one to be actioned.

### Stage 3: Implementation

15. Once the decision maker has decided on which option to pursue, presuming that it is a change from the status quo, the implementation stage can start. This includes:
- Planning for implementation
  - Implementing
  - Monitoring and reviewing throughout implementation
16. Planning for implementation is important as, although many aspects of implementation will have been identified throughout the option development, the activities are quite distinct. It may be that they will be undertaken by different people/departments/teams. Implementation can throw up problems that were not foreseen during the policy development phase that require some reconsideration of issues.
17. During the implementation phase, a number of aspects are relevant:
- Formal project methodology may be necessary for the implementation plan, depending on the size of the project. It may be that a small item, particularly if internally or team focused, will require less formality.

- The plan may reveal problems that mean the decision to proceed could be revisited. Mechanisms for doing this must be built in to the implementation plan. The selection criteria may be useful here or there may be other criteria regarding the cost of implementation that might come in to play.

### Stage 3 Gateway

18. The implementation project must have a clear closure point to it. Implementation should not go on indefinitely. Depending on how the implementation project is set up, the report of the closure may not be made to the decision maker. However, it is always prudent to advise the decision maker that implementation is complete, especially if the Board has been the decision maker.

### Evaluation

19. The final stage of policy development is to monitor and evaluate the option that has been implemented to see if it is having the desired effect. The final stages are therefore to:
  - Evaluate (the long term policy effectiveness and impacts actually seen)
  - Modify (some minor changes may become necessary or a more wholesale change may be required – leading to the definition of a new problem).
20. This stage is very important to show that our intervention is in fact making a difference. It is also notoriously difficult to do. We know that we need to develop our capability in this area but it is an important part of policy analysis and sets the scene for further development. If a policy is not working then we need to understand that and adjust our regulation accordingly. The outcome of this stage may be a new problem that needs to go through the whole process again.

### Elements that run throughout

#### Telling the story

21. There are some elements that run throughout the process. At all stages there may be a need to “tell your story”. When doing this we will expect people to tailor the content and message to the intended audience. Different things may be needed at different stages, for example:
  - During problem definition – needed to explain internally or externally why we are doing something
  - During option development – may be needed as part of any consultation during the process. It will be critical to communication of the analysis and the decision to be taken to the decision maker at the end.
  - If going to implementation – telling story about what decision has been made, perhaps also why and what happens next.
  - During implementation to keep people up to date
  - During evaluation to communicate the results of the evaluation and ongoing effectiveness

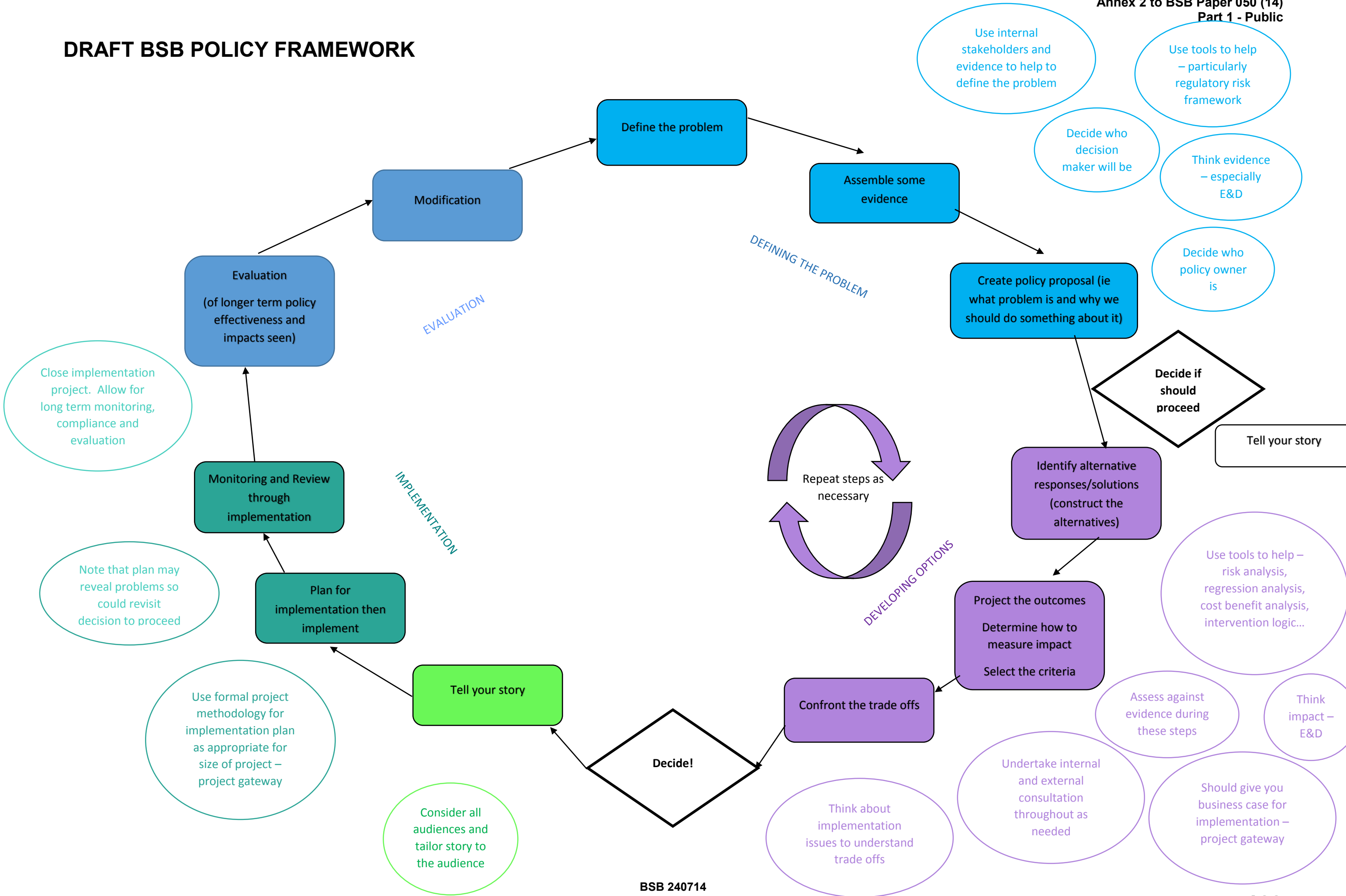
22. At all points it is very important to consider that there may be a lot more information available than is needed to tell the story at that point in time. When applying this framework people will need to think carefully about the intended audience. There has been a tendency in the past to give full explanation about everything but that may not be necessary or most effective. We would expect people to be drawing on the expertise available in the Communications team but also to be sharing experience and learning from others what has been successful or less so with particular audiences.

Equality impact

23. Obtaining and using evidence relating to protected characteristics will be central to the whole policy framework. It is highly likely to be relevant when defining the problem, it will be part of the option development, especially when considering the possible impact that each option may have, it will need to be monitored and the overall impact evaluated.



# DRAFT BSB POLICY FRAMEWORK





## Review of standard contractual terms and the cab rank rule

### Status

1. For discussion and approval.

### Executive Summary

2. The standard contractual terms (and associated amendment of the cab rank rule) were introduced at the beginning of 2013, following approval of the rule change application by the Legal Services Board (LSB) in July 2012. The LSB subsequently launched a formal investigation into the Bar Council's involvement in the rule change. The investigation was resolved informally and the Bar Council gave a number of undertakings, including (via the Bar Standards Board) a review of whether the standard contractual terms should remain part of the BSB's regulatory arrangements.
3. This paper updates the Board on the review work that has been undertaken to date and seeks the Board's approval to consider removing the standard terms from our regulatory arrangements. However, it is recommended that a formal call for evidence is undertaken to inform the Board's final decision.

### Recommendations

4. The Board is asked to
  - a. **agree** to consider removing the standard contractual terms and the list of defaulting solicitors from our regulatory arrangements;
  - b. **agree** to postpone such a decision until after a more substantial call for evidence has taken place; and
  - c. **note** that any such application for a change must be made to the LSB by July 2015.

### Background

5. Prior to the rule change approved by the LSB on 27 July 2012, the cab rank rule did not apply to any instructions from a solicitor to a barrister that purported to be on a contractual basis. The default position was that barristers were instructed on the non-contractual basis provided for by the old Annex G1 to the 8<sup>th</sup> Edition of the Code of Conduct ("The Terms of Work on which barristers offer their services to solicitors and the withdrawal of credit scheme"). The BSB felt that those arrangements were outdated and no longer appropriate in the modern legal services market. The previous, non-contractual, honorarium basis of payment failed to provide for solicitors, barristers and the lay client, an effective method of enforcement of rights and obligations (there had previously been a solicitors' professional conduct obligation to pay barristers' fees but this ceased to be the case in 2007).
6. Clearly, contractual relationships between solicitors and barristers are not ordinarily a matter for the regulator. The BSB only takes an interest in so far as relevant to the application of the cab rank rule. The rule change (once it came into force in January 2013) meant that instructions would fall within the scope of the cab rank rule if they were made either on the standard contractual terms (which were originally inserted as Annexe T of the old Code) or any standard terms that were published by the barrister. It also provided that barristers were not obliged to act under the cab rank rule if solicitors appeared on the list of defaulting solicitors, which is maintained by the Bar Council.

7. The LSB began an investigation in June 2013 into the Bar Council's involvement in the development of these changes to the regulatory arrangements. It was resolved informally on 25 November 2013, following a number of undertakings being made by the Bar Council. These undertakings are listed at **Annex A**. One commitment, to be undertaken by the BSB, was, by the end of July 2014, to complete and publish a review as to whether it is appropriate for the standard contractual terms, the related BSB Code of Conduct Cab Rank Rule provisions (which at the time included 604 (g) and 604 (h) of the Code and the definitions within part X) to remain within the BSB's regulatory arrangements. Following this, any application to the LSB to change our regulatory arrangements must be made by July 2015.
8. Since the rule change decision, the LSB has approved the new BSB Handbook. The standard terms are no longer included in the Code of Conduct section of the Handbook, but there continues to be a reference to them in rC30.9.c. The effect of this is that barristers are not obliged to accept work under the cab rank rule unless it is on either the standard terms or the barrister's own published terms. They are also not obliged to accept work from solicitors on the list of defaulting solicitors. The BSB has already taken the view that the standard terms may be published by the Bar Council on its website, rather than within the BSB's regulatory guidance, but has not regarded this as a purely representational matter because of the link to the cab rank rule.

### Comment

#### The importance of the cab rank rule

9. The BSB's belief in the continuing importance of the cab-rank rule has been reaffirmed in the new Handbook. The cab-rank rule is an unusual feature of the Bar's regulatory arrangements, given that it can be professional misconduct for a barrister to refuse to represent a lay client because the barrister, for example, does not want to appear to be associated with a particular client, or would prefer for commercial reasons to act for a different party. The Board has taken the view that this is clearly in the interests of consumers of barristers' services, and an essential safeguard of access to justice, the public interest and the rule of law (hence in the interests of the regulatory objectives).
10. However, the Board would not think it reasonable to expect barristers to be obliged to act with no contractual right to be paid for their services or clarity around when and how they are to be paid (non-payment or uncertainty as to fees is likely to affect the regulatory objective of encouraging an independent, strong, diverse and effective legal profession and may undermine competition in the provision of legal services).
11. It is not proposed that the cab rank rule itself be reviewed at this stage – this review is limited to the need for the standard contractual terms.

#### Stakeholder feedback to date

12. Feedback from stakeholders in the profession so far has suggested that many chambers have not routinely been entering into contracts when accepting instructions from solicitors. There are early indications that our Supervision visits may confirm this. Whilst nothing obliges barristers (other than in the context of the cab rank rule) to accept instructions on a contractual basis, there is a risk that in failing to do so they may also be failing in their obligations under rC22 to confirm in writing the acceptance of instructions and the terms and/or basis on which they will be acting, including the basis of charging.



13. It has also been alleged that solicitors are generally seeking to impose their own terms on barristers. This is not ordinarily a matter for the regulator – barristers and solicitors are free to agree the terms of instructions between themselves. However, it has further been alleged that certain solicitors may be using “bullying” tactics to require barristers to accept terms that may be contrary to their regulatory obligations. Whilst this may give rise to some conduct concerns in respect of the solicitors involved, it is not relevant to the cab rank rule (since solicitors must accept either the standard terms or the barristers’ own terms if they wish the barrister to be obliged to act under the cab rank rule).
14. We have not so far received any direct feedback about the impact on the operation of the cab rank rule of the new terms; nor have we had any specific consumer concerns raised directly with us. It is therefore recommended that further and additional evidence is needed before forming a definitive view on the issues.

Alternative approaches: standard terms

*Option A: Require the barrister to accept “reasonable terms” under the cab rank rule*

15. The BSB originally considered and rejected the proposition that a barrister would be obliged to accept instructions in a case if they were proffered “on reasonable terms”.
16. This option had the advantage of succinctness, and of not prescribing any content for such terms, other than that they be reasonable. However, the perceived problem was that this version of the rule did not establish a bright line in a situation where a bright line was essential. It was felt that a barrister needed to be able to judge, in urgent cases as soon as he or she is offered work, whether the cab-rank rule applies to that offer, because a barrister needs to know, there and then, whether it would be a breach of the code of conduct not to accept the instructions.
17. While barristers are expected, in the context of the cab-rank rule, to make judgments about whether or not a reasonable *fee* has been offered, requiring them to make judgments about the reasonableness of *terms* offered is more complex and could lead to disagreements about whether the terms as a whole, or aspects of them, are reasonable or not (and it may not be possible to resolve any such disagreements in a short timescale).
18. It was felt to be unsatisfactory for the content of a disciplinary rule to be so unclear, and hence for there to be doubt about when it will apply.

*Option B: Require barristers to publish their own “reasonable” terms (which might be standard terms produced by the Bar Council, Specialist Bar Associations or others)*

19. This option would have the advantage of certainty for the barrister in situations where he or she were required to make decisions quickly. It might also aid compliance with rule rC22 and ensure that clients understood better the terms on which barristers were instructed.
20. However, there might be an incentive for barristers to adopt terms that solicitors might object to, which might lead to complaints from solicitors about breach of the cab rank rule due to unreasonable terms. The decision about what is or is not reasonable is a complex one and may be difficult to police. And as with the proposal above, there is a risk of undermining the cab-rank rule because of the scope for differences of view between the parties as to whether terms offered are reasonable.

Alternative approach: List of defaulting solicitors

21. The Handbook retains the provision that barristers are not obliged to accept work under the cab rank rule from solicitors named on the list of defaulting solicitors. The rationale for this is that it is unfair to oblige a barrister to accept a credit risk by the operation of the cab rank rule. This is quite reasonable for the reasons outlined above. The list of defaulting solicitors is maintained by the Bar Council and the BSB has no involvement.
22. An alternative approach on this matter might be to include an exemption from the cab rank rule for cases where the barrister has formed the reasonable opinion that the solicitor is an unacceptable credit risk. Appearing on the list of defaulting solicitors might well be evidence of such a view. Again, the implications of this would need to be considered fully – in particular whether there was a risk that this would undermine the cab rank rule.

**Next steps**

23. Now that the new contractual terms have had time to bed in and the new Handbook has been launched, it is right for the Board to look again at the appropriateness of the Handbook rules. It is therefore suggested that the Board seek further evidence from the Bar, solicitors, the SRA and other approved regulators, consumer groups and the wider public about the issues raised in this paper. The specific aim should be to challenge the assumptions made previously and investigate whether the alternative approaches above might be feasible without undermining the principle and effectiveness of the cab rank rule and the regulatory objectives.
24. Given the normal working patterns of barristers, it would not be practical to publish such a review at the end of July. It is therefore suggested that we:
  - a. Publish a call for evidence in September, open until December;
  - b. Reach a final decision by the March 2015 Board meeting; and
  - c. Make any application to the LSB in April 2015.

**Resource implications**

25. There will be implications for the Regulatory Policy and Communications teams – these will largely be staff time and can be incorporated into business as usual (if necessary, this important review will be prioritised over other work). Advice will be sought from the Research team as to whether any specialist research resource would be beneficial.

**Equality Impact Assessment**

26. An equality analysis has not yet been undertaken, but the call for evidence will include representative groups for those with protected characteristics. The impact on access to justice for these groups will be an important factor to consider in the Board's final decision.

**Risk implications**

27. This is an issue that goes to the heart of the regulatory objectives and evidence collected will be a useful addition to our knowledge base about the risks in the market and the proportionality of our responses to them. The Regulatory Risk Manager will be in post when we launch the call for evidence and may be treated as a 'pilot' for some of our new processes under the regulatory risk framework.

**Consultation**

28. We have had discussions with some members of the profession and sought evidence about the type of contract on which barristers are accepting instructions. No formal consultation has been undertaken since the rule change was implemented, hence the recommendation for a call for evidence.

**Publicity**

29. A communications plan will be agreed prior to any call for evidence being issued. It is important that the views of non-barristers (including solicitors and consumer groups) are targeted.

**Annexes**

Annex A – summary of undertakings given by the Bar Council following the LSB investigation

**Lead responsibility:**

Ewen Macleod  
Head of Regulatory Policy



Bar Council investigation – the required undertakings

1. (a) Develop proposals to achieve the outcome that Bar Council staff and officers that provide advice or assistance to the BSB on regulatory functions will respect the principle of regulatory independence by ensuring their involvement is transparent and the risk of undue influence is on regulatory functions is minimised;  
  
(b) Seek the approval of the LSB to those proposals by 16 December 2013 and publish them by 20 December 2013; and  
  
(c) Report to the LSB any material failure to implement and comply with the approved proposals.
  
2. (a) Develop proposals to achieve the outcome that Bar Council staff and officers do not attend non-public sessions of the BSB Board and its committees other than in exceptional circumstances and that any reasons for attendance is documented and made public. For the avoidance of doubt this does not preclude arranging meetings between the BSB and Bar Council to enable the Bar Council to represent or promote the interests of barristers.  
  
(b) Seek the approval of the LSB to those proposals by 16 December 2013 and publish them by 20 December 2013; and  
  
(c) Report to the LSB any material failure to implement and comply with the approved proposals.
  
3. Implement measures to ensure that the funding of the process whereby a barrister can complain about unpaid fees will only be via the Practising Certificate Fee from April 2014. This must remove the requirement that a barrister must have paid the Bar Council Member Service Fee, or any other voluntary fee, in order to complain about non-payment of fees by a solicitor or other authorised person under the rules relating to the list of defaulting solicitors and other authorised persons 2012 (approved 2 March 2013) and the scheme for complaining to the Bar Council for publicly funded matters 2012 (approved 2 March 2013). For the avoidance of doubt the Bar Council may not impose any voluntary fee, levy or percentage charge for considering whether to or adding a solicitor or other authorised person to the list of defaulting solicitors as defined in Part X of the BSB's Code of Conduct.
  
4. By the end of July 2014, complete and publish a review (by delegation wholly to the BSB) as to whether it is appropriate for the standard contractual terms, the related BSB Code of Conduct Cab Rank Rule provisions (including 604 (g) and 604 (h)) and definitions within part x of the BSB's Code of Conduct to remain within the BSB's regulatory arrangements. Additionally if an application to the LSB to alter the BSB's regulatory arrangements is necessary following the review, it must be made by July 2015.



**Chair's Report on Visits and Meetings June-July 2014****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:**

- |            |  |
|------------|--|
| 26 June    | Attended Westminster Forum on Family Law<br>Attended Dinner at Gresham College   |
| 27 June    | Attended South Eastern Circuit Annual Dinner   |
| 1 July     | Lunch with Sir Michael Pitt, LSB Chair, and Patricia Robertson QC<br>Attended Middle Temple Garden Party   |
| 2 July     | Met with the editor of The Times   |
| 3 July     | Lunch with Peter Susman QC<br>Attended Chairmen's Committee meeting<br>Attended meeting at Gresham College<br>Attended Lincoln's Inn Garden Party  |
| 4 July     | Meeting with Robin Miller, Public Affairs officer at the BBC<br>Gave evidence to Greek research project on regulation of Assisted Reproduction   |
| 7 July     | Interviewed for Legal & Policy Assistant position, together with Patricia Robertson QC & Vanessa Davies  |
| 8 July     | Gave welcome address and attended International Legal Regulators conference at Gray's Inn<br>Hosted dinner in House of Lords with Desmond Browne QC, Derek Wood QC, Gordon Turriff QC (Canadian) and spouses |
| 10/11 July | Attended sessions at International Legal Ethics Conference, City University London   |
| 10 July    | Interviewed for Legal & Policy Assistant position, together with Patricia Robertson QC & Vanessa Davies  |
| 15 July    | Guest of Judith Portrait, solicitor, at Glyndebourne   |
| 16-18 July | Attended QASA Judicial Review Appeal hearing at Royal Courts of Justice  |

- 16 July Took part in Panel discussion at Berwin Leighton Paisner
- 17 July Attended Bench Table meeting at Inner Temple  
Attended garden party given by 1 Crown Office Row
- 18 July Guest of the BBC at the Proms
- 21 July Attending Regulators' Summit at MoJ
- 22 July Attending Finance Committee  
Guest at Brick Court chambers drinks party
- 23 July Attending Board briefing meeting
- 24 July Attending Gresham Council meeting  
BSB Board  
Attending dinner for outgoing Provost at Gresham College
- 26 July Attending Bar Council meeting

### **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:**

Baroness Ruth Deech QC (Hon)



**Director's report - BSB meeting 24 July 2014**

For consideration and noting.

**Director**

1. This month I have had close involvement with the Education and Training team in relation to the main examining board of the year which has been managed successfully by the team and the chair of the examining board, Professor Mike Molan. I was pleased to open the annual BPTC providers' conference which the BSB organises and took the opportunity to lay out the principles of our reform programme following the LETR. I was also able to give some indicative timelines for the reform, following the work our new education change manager Tim Keeling has done on formalising the Programme. Further engagement sessions with the profession and interested parties are now shaping up for the autumn.
2. I have lead a series of visits for newer staff to the RCJ so that they can see the justice system and those we regulate in action. Any Board members who want to join such a visit should let Lynne Callegari know.
3. A good cross section of BSB staff were able to attend sessions at The International Conference of Legal Regulators which met for two days this month, supported by the BSB and SRA. I chaired a session on the application of behavioural economics and psychology to compliance for lawyers, with presentations from Professor Richard Moorhead of UCL on his empirical research into lawyers' ethical behaviour and from the chief executive of the New Zealand Law Society on their recent experience on incentivising compliance.
4. By the time of the Board meeting, I will have I participated with the Chair in the "Regulators' Summit" organised by Minister Shailesh Vara MP. The agenda topics are "key proposals to reduce burdens and challenges to delivery." The summit is to be addressed briefly by the Secretary of State.
5. Finally, our entity regulation proposals were given attention in a speech made by the Treasurer of Middle Temple (Lord Judge) on the future of the Inns and the Bar: he urged those listening to give real consideration to the opportunities presented in our proposals.

*The Regulatory Improvement Programme*

6. This is covered in more detail in the main agenda this month but other work has included discussions with learning and development providers on the next stages of the capacity and capability programme and ensuring the follow on action plans from TRIP are incorporated in our business plans (including importantly the value for money work) and that the interim self- assessment on the Regulatory Standards Framework is on track.

**Regulatory Policy**

7. Whilst the Legal Services Board considers our application to become an entity regulator, we have launched a short consultation on some of the outstanding details relating to our proposed entity regulation regime. Firstly, there are some minor tweaks to the Handbook to ensure the effective operation of the contractual relationship between us and any non-barristers whom we may regulate (i.e. entities and their managers).

8. These changes will enable us more easily to act to protect clients' interests in cases where entities are in difficulties, insolvent or not co-operating with the regulator. We are also consulting on the minimum terms of insurance that BSB regulated entities will be required to have.
9. The consultation will close on 5 September and we have scheduled a number of public meetings so that stakeholders can find out more about our proposals and contribute their views. The Board will be asked to sign off the final policy proposals at its 18 September meeting.
10. After the summer break we will launch a consultation on the proposed order under s69 of the Legal Services Act 2007 to make changes to the Bar Council's statutory powers under the Act. The consultation will propose to give a statutory power as an alternative to the contractual regulatory relationship with the non-barristers whom we regulate.
11. It will also give us a statutory power to require information to be provided to us and give us a statutory power of intervention over all entities authorised by us. We have been in discussions with the LSB and the Ministry of Justice to agree the timetable for drafting the order.

### **Supervision**

12. All chambers have now been informed of the results of the Impact Audit Survey and whether they are Low, Medium or High impact for supervision purposes. There are 189 High Impact Chambers, 214 Medium Impact Chambers and 406 Low Impact Chambers. A report on the results of the Impact Audit Survey will be presented to the Board in September; this should provide some valuable information about the profile of chambers and the market as a whole.
13. The Supervision Team piloted a Supervision Return with a small number of chambers; this return included a number of open questions designed to elicit answers that would allow for an assessment of how effectively chambers are controlling risks and also to identify inherent risks at chambers. The responses submitted to the pilot were very useful and therefore with some revisions the Supervision Return has now been issued to High Impact chambers. They have until 14 September to complete it. The Supervision Return is being administered through the U-engage software.
14. The supervision visits pilot has now concluded after 9 pilot visits were completed. A report is being prepared and will be presented to the Supervision Committee in September.
15. Four risk-based visits are scheduled for July and staff from the LSB will attend 2 of these. These staff will also attend the BSB's offices on 21 July to meet the Supervision Team and discuss the new approach and relevant documentation.

### *CPD Spot Check 2013*

16. The final reminders for the CPD spot check have been issued and with one week to go a 95% response rate has been achieved. Of these, around 25% have already been assessed by the CPD assessment team. The intention is for assessments to be completed by the end of August. A full report will be presented to the Board later this year but early signs have been promising; although approximately 7% of those assessed have required some corrective action, all (except one) have agreed to undertake the required action or have already completed it.

*Entity implementation*

17. The implementation project is on track with all work streams progressing as planned. We are in the process of recruiting for an Authorisation Manager which will provide valuable additional expert resource. The key operational risk at present is in ensuring that we will have adequate IT systems in place to manage the authorisation process. There remains uncertainty about whether Barrister Connect can be modified as required to provide an effective on line application process. There is of course a contingency plan. The Board will be kept updated on this as well as the progress of the implementation generally.

*Youth courts*

18. The Head of Supervision and our Stakeholder Engagement consultant had a productive meeting with the National Children's Bureau at which the recommendations in the Carlile Report were discussed. The recommendation for compulsory training for advocates in Youth Courts was a particular point for discussion.
19. It was agreed that the BSB would share the proposed research specification into youth justice with the NCB with a view to the NCB potentially tendering for the research. The meeting also provided an opportunity to outline other aspects of the BSB's work and to seek to build broader consumer relationships. Further meetings with NCB and other charities interested in youth justice will be arranged as part of the BSB's commitment to reviewing the standards of advocacy in the Youth Court.

**Education and Training***Post-LETR plan*

20. Work is progressing to formalise by the end of July the Programme structure and Governance for the agreed Post LETR Plan, led by Tim Keeling.

*Vocational Training*

21. The closure of the Kaplan Law School BPTC programme is in progress, with teaching and first sit centralised assessments having been completed, and a clearer picture emerging on the remaining responsibilities upon the provider to support students through any resits. The programme of closure is being very closely monitored by the BSB, with external expertise.
22. A significant increase in the number of candidates for the Bar Transfer Test was recorded in its first sitting in 2014. The Exam Board met on 17 June, and summary results will be considered by the Education & Training Committee in September.

*Centralised Assessments*

23. The First Sit Final Board was held on July 3<sup>rd</sup> and results sent out to Providers on 9<sup>th</sup> July. Paper Confirm meetings are now taking place for the resit contingency papers in all 3 subject areas.
24. The Centralised Assessments Review Panel is currently being formed and will be formally meeting for the first time in September.

*Pupillage*

25. Revisions to the Pupillage Handbook were approved by the Education & Training Committee at their meeting on 2 July.

*CPD*

26. Work has progressed with the development of a transitional accreditation scheme for providers in 2015.

*Authorisation & Waivers*

27. At its meeting on 8 July 2014, the Qualifications Committee received a presentation from the Head of Regulatory Policy on Entity Authorisation. The Committee also discussed what key performance indicators should be adopted, and considered four applications for review, upholding the original decision in two cases and amending the original decision in two cases.

*Staffing*

28. Recruitment is underway to replace the Assessment Administrator who left on 4<sup>th</sup> July. All other vacancies are now filled.

*External liaison*

29. Tim Keeling attended the IALS conference on 'Legal Education & Training and the Professions' on 23-24 June.
30. Simon Thornton – Wood met with the Law Subject Associations on 24 June to discuss the BSB's plans to introduce a competency framework, and future developments in the Academic Stage of training.
31. Simon Thornton-Wood and Marion Huckle have contributed to the annual programme of Pupil Supervisor training sessions that is run by the Inns and Circuits.

**Equality and Diversity**

*Equality and Diversity Chambers Monitoring*

32. In June the Board approved a report containing the findings of the recent E&D chambers monitoring exercise. The E&D team are in the process of implementing the report's recommendations. An action plan is being developed in partnership with the Supervision team aimed at improving levels of compliance with the equality rules. As part of the plan, the E&D team will be working with the Communications team to produce an E&D information 'flyer' that can be distributed to chambers during supervision visits.
33. Other activities arising from the report include the development of a sample equality action plan for chambers, more detailed guidance on the action plan rule in the Equality Rules Supporting Information document and better signposting of the sample Reasonable Adjustments and Parental leave policies on the BSB website. The BSB will be inputting into Bar Council events later in 2014 with the chambers' Equality and Diversity Officer Network, focused on supporting officers in implementing the work allocation and flexible working requirements.

*Institute of Barristers' Clerks Annual Conference*

34. On 21 June the E&D Senior Policy Officer attended the annual Institute of Barristers; Clerks (IBC) conference at the Rose Bowl Conference Centre in Leeds. The SPO hosted a BSB exhibition stand and facilitated a workshop session on the monitoring of unassigned work in chambers. The workshop was well attended by a mixture of clerks and barristers, and the discussion focussed primarily on the regulatory requirements in this area and the evidence that the BSB will expect to see when carrying out supervision activity. There were also panel contributions from a chambers' administrator and a software developer who each delivered presentations on different ways that the rules could be implemented in chambers.

*Equality Analysis of CPD Interim Accreditation Scheme*

35. The E&D team have worked with the Education and Training team on the equality analysis of the CPD interim accreditation scheme for 2015. The interim scheme will provide a basis upon which to build the proposed Quality Mark scheme that is due to be introduced in 2016. E&D will form a core part of the assessment when CPD course providers are being awarded the Quality Mark.
36. The equality analysis of the interim scheme has identified a number of anticipated positive equality impacts including a likely increase in the range and type of CPD courses available (e.g. more online and distance learning courses).

*Bar Course Aptitude Test Evaluation*

37. The E&D team have continued to be closely involved with the evaluation of the Bar Course Aptitude Test (BCAT). The SPO attended a meeting with the BCAT Evaluation Group and IFF Research to discuss the impact evaluation work stream. The E&D impact of the test was explored through analysis of interviews with students and BPTC providers.
38. A consolidated report will be produced in August which will bring together all completed strands of work and will contain specific chapters on E&D. Following the completion of the report the E&D team will assist in the development of recommendations.

*Staffing*

39. The E&D SPO, Jessica Bradford is due to take maternity leave from early September 2014. A temporary replacement for the SPO role has been recruited; Sarah Charlesworth will join the BSB on 1 September. Sarah is currently working as a diversity officer at Leeds University Students Union and brings with her a range of specialist E&D skills relating to research, stakeholder engagement and gender studies.

**Professional Conduct***General*

40. The PCD Away Day will take place on 16 July 2014 for all PCD staff members. The Away Day is an opportunity for the PCD staff to reflect on the changes to our processes introduced as a result of the BSB Handbook; learn more about the strategic aims and business objectives of the PCD and wider BSB; and, begin the important preparatory work towards the introduction of entity regulation.

41. Risk and its application will feature heavily during the day with the agenda including training on the BSB Risk Framework and scenario-based workshops designed to ingrain a consistent approach to risk-based decision making.

*KPIs*

42. A full report in relation to performance against the KPIs will be available at the September Board when an amalgamated performance/user feedback survey report will be presented for the first time as the PCD Annual Report.
43. For information, performance in 2013/14 against the overall KPI - *percentage of complaints concluded or referred to disciplinary action with service standards* - was 76.7% against a target of 80%. The statistics for Quarter 1 (Q1) this year show that this figure has increased to 79%.

*Judicial Reviews*

44. The PCD remains subject to four applications for Judicial Review with two of these still at the permission stage and the other two listed for full hearings.
45. In relation to appeals that have been lodged against the decision to dismiss the JR on the COIC appointment issues, the Court of Appeal has decided that the permission application, and any resulting substantive hearing will take place on the same day and is unlikely to take place until the end of 2014.

**Strategy and Communications**

Business management

*Freedom of information*

46. As per our Business Plan commitment, work has commenced on the development of a Freedom of Information compliance system. At the moment only a scoping exercise has been carried out with reference to the Information Commissioner's Office.

*Budget and business planning*

47. Preparatory work has commenced on planning for the 2015-16 business year – the final year of the BSB's current Strategic Plan. Heads of Departments and budget holders have been working with the Business Support Team to compile their business plans and budget bids. Fees and Charges have also been considered as part of this process. The Board will receive the draft documents at the budget meeting in September 2014. The bids will be scrutinised by the Planning, Resources and Performance Committee prior to that.
48. The team is also preparing for quarter 1 reporting for the current business year, with performance and risk reports being drafted for the PRP and Governance, Risk & Audit committees this month.

*Contract Management*

49. A review of the Service Level Agreements we have in place with Central Services is well underway and is due to conclude in August 2014 with a report to the PRP Committee.

Communications*Press relations*

50. This month the BSB secured good levels of national media coverage after *The One Show* on the BBC featured the disbarment of Yvonne Turley/Lloyd in a programme on fake lawyers. We secured widespread trade press coverage of, among other things, Baroness Deech's speech to the International Conference of Legal Regulators, our application to the LSB to become a regulator of entities, and the launch of our consultation on entity regulation rule changes and insurance.

*External communications*

51. Direct emails were sent out to members of the Bar, Specialist Bar Associations, consumer organisations, and other interested parties, to alert them to our entity regulation rule change and insurance consultation. Other current projects include communications strategies for changes to education and training, and entity regulation.

*Online and social media*

52. During the past month we published on our website news stories about Public Access rules and foreign work, as well as the disbarment of a barrister following a criminal conviction for fraud. We received around 36,477 visits to the BSB website and, at the time of writing, have over 8,900 followers on Twitter.

*Publications*

53. The Biennial Survey and Bar Barometer have both been published.

*Conferences/events*

54. There was a high level of participation in the International Conference of Legal Regulators, starting with Ruth's address to open the conference and including a very well received session conducted by Vanessa Davies in conjunction with Richard Moorhead, Professor of Law and Professional Ethics and Director of the Centre for Ethics and Law at UCL and Christine Grice, Executive Director, New Zealand Law Society. A number of staff members attended across the two days of the conference. The conference ran smoothly due in part to good organisation by Alison Hook, from the SRA, with excellent support provided by Fiona McKinson from our Communications Team.

*Future workload*

55. The workload in the Communications team will be very high in the next six months in relation to a number of major BSB projects. They include: entity regulation; post LETR review; post TRIP story-telling; and the intranet. We also wish to continue to make progress on our stakeholder engagement programme. Extra resources will be engaged as necessary to support the workload.

Regulatory knowledge and information

*Research*

56. The actions agreed by the Board in private session on 26 June towards progressing the review of the core database were progressed according to the timetable with no delay.
57. A number of projects at different stages are being progressed. The current priorities are the BPTC reform and BCAT evaluation projects. The LASPO review is progressing well. The exit survey (which collects information about people leaving the profession) has been renamed “the Leavers’ form” and will start shortly. The QASA, Youth Courts, Silent Consumers and CPD reform projects are currently pending decisions and/or resources.
58. The Research team has been set up to use uEngage. This is another part of the Objective system that allows us to run surveys electronically. The Leavers’ Form will be the first data collection exercise using uEngage by the Research team.
59. A cross-departmental exercise was initiated to map intelligence, knowledge, information and data sharing opportunities and needs.
60. Siobhán Fitzgerald resigned from her post as Research and Information Officer and left on 11 July to move abroad. Recruitment has commenced to find someone to replace her.

**Central Services Report**

Current Key Business Projects

*Document Management System*

61. Work has begun to develop a workflow for the BSB Complaints process.
62. Plans are in place to restrict the g: drive at the end of July so that all documentation, where possible, is stored in the DMS.
63. Lessons Learnt activity and project review is planned for July/August to take stock of successes and failures during the project. Further staff training will take place during July/August to refresh the capability of staff in using the system.

*Objective Connect – roll out*

64. A presentation was delivered to the BSB board in June around use of the system to share board papers.
65. A plan for wider roll out of use will be pulled together once the tool has been used with the BSB Board; communications have gone out to generate interest in using this tool to support other business areas.
66. Amit Bhatt – Information Security Manager is managing this project.



*Authorisation to Practise 2015*

67. Work is underway to define the regulatory requirements of the ATP process for BSB in addition to the development of the income based model for the PCF.
68. Early discussion with the technology suppliers has taken place and the development of a technical specification is underway.
69. Process development work has begun in relation to the validation process around income declaration, largely delivered through the supervision department.

*Intranet*

70. Business Case completed and approved by SLT 22/5/14.
71. Stage 1 of requirements process complete – 5 workshops covering a cross section of 47 stakeholders across the organisation.
72. Stage 2 of requirements process complete – individual survey to all staff in organisation. 51/ 150 returns received.
73. Project Plan for stage 1 of the project complete.
  - Developed pre-qualification questionnaire to suppliers to develop shortlist of suppliers able to meet our criteria.
  - Content development process and Content Editor brief drafted for discussion with Communications and development of approach.

*Legal Aid Sentencing and Punishing Offenders Act (LASPO) research project*

74. The PMO continues to support the project in an assurance capacity and the project is progressing in accordance with its original scope.

*Developing Barrister Connect*

75. Our IT Business Analyst, Steve Scott, has been tasked with reviewing the Barrister Connect Portal. He is currently developing a new Barrister Connect portal requirements document, and is well underway with documenting the current system / processes' and has met with the several areas in order to document their current and new requirements including Records, Research, Supervision and Finance.

*CPD Regulation Implementation*

76. Work is underway to articulate the new CPD scheme for 2016, with a view to developing this further with internal and external working groups during July/August and sign off a consultation proposal at the September BSB Board.
77. Early engagement is taking place with providers of online CPD tools to assess marketplace and feed requirements gathering.
78. An interim accreditation scheme will be implemented for CPD providers in the year 2015 and work is underway to review the processes and guidance to support this implementation.

*Entity regulation*

79. The PMO and IT are providing dedicated resource to support the Entity regulation project, specifically in the form of business analysis and systems analysis. This contribution dedicated to developing the authorisation process for entities.

*Bar Course Aptitude Test*

80. The PMO continues to manage the first year evaluation of the BCAT, several strands of this evaluation have been completed. A consolidated report will be delivered at the end of the year/early 2015.

*Pupillage Gateway*

81. The 2014 pupillage application round was a success in terms of the system and service provided by the Bar Council.
82. A review of the success will take place over the next few months and planning for 2015 is underway.

*Outlook Web App*

83. IS delivered a presentation to the BSB board introducing Objective Connect and Outlook Web App. Induction packs were handed out to the board members. They contained Acceptable Use Policy, user guides, FAQs and support information.
84. A security assessment was carried out on Objective Connect by a leading independent security company. The report identified no high level vulnerabilities.
85. A further Objective Connect and Outlook Web App refresher training/workshop is to be arranged soon and talks regarding rolling out Objective connect to other committees are proceeding.

*Integrated Room Booking System*

86. The new meeting room booking solution is now live. The application has been fully operational since Tuesday the 8 July, and is available for all members off to use. Early indication suggests that the solution is working as expected and is receiving positive feedback from those who have been using it to book meeting rooms. There are some minor issues with the with outlook plug which are being addressed but these are restricted to a small number of users. We shall continue to monitor the performance of the application and make amendments where required.

Upcoming projects

*Legal Education and Training Review*

87. The PMO has met with the new Change Programme Manager and will be developing ways of working over the next few weeks to support this programme of work through playing an assurance role.
88. The PMO is project managing on one of the key project work streams – CPD Reform implementation as part of the LETR programme.

*Finance and HR processes and systems*

89. Work is underway to document and then review all HR and Finance processes in order that a review of the systems can take place; a business case for any investment required for this will be brought to SLT in a couple of months' time.

*Property strategy development*

90. Work is underway to shape out the timeframes and scope of work to develop the property strategy in preparation for end of lease in 2019.

Team Updates

*Project Management Office*

91. The team is currently managing BCAT evaluation, CPD Implementation, Intranet, Document Management System, Authorisation to Practice, Pupillage Gateway and supporting other projects including Entity Regulation, Objective Connect roll out, Development of Barrister Connect, Property Strategy development.
92. Project Gateway process has been agreed and plans for its roll out across the organisation will be implemented over the next few weeks.

*Finance*

93. Audit material has been completed and final accounts have been submitted for formal approval to Audit and Finance Committees.
94. Work has begun on process mapping all finance related workstreams to support the development of the specification of a new finance system. This will be completed by end of August.
95. Interim Peter Edwards began with Finance in July to take handover from Nick Miller, Management Accountant, who leaves us in July.

*Human Resources*

96. HR team are expecting to complete the Representation and Policy restructure support during July.

*Facilities*

97. Following negotiation the Landlord has agreed to settle on the three rent reviews.
98. Works to the upper floor common areas including Ground Floor Reception are due to commence on 21 July. AOC Interiors have again been appointed to carry out the work.
99. A potential new AV system has been sourced and will be trialled by the Chief Executive and Facilities over the couple of weeks.
100. Further exploratory works are required on the Heating/Ventilation/AirCon system in connection with the practical completion certificate for the SPACE project.

101. Security ID cards for staff are to be issued in place of fobs. Feasibility discussions are taking place with our current provider regarding rolling these out using our current security software system.

*Records*

102. Authorisation to Practise 2015-16 – Income Model – The team have now commenced testing on the core database with the income model fee structure.
103. Barrister Connect Portal – The team have provided their recommendations to the project manager for this process, so that the portal can be streamlined and user friendly for the income based model for 2015-16.
104. General housekeeping on the Core Database has commenced.
105. BMIF Insurance Validation Data – we have now received the data from the Bar Mutual insurance Fund and we are in the process of interrogating the data. This will probably take 4 weeks to complete.
106. Knowledge Sharing - The Records Manager has met with Research in the Bar Standards Board to address knowledge sharing and to assist with the data analysis, in particular, to share information on how the Database has developed over the years.
107. Public Access Record Keeping. Records have taken on responsibility for updating barrister records for Public Access training. The backlog of applications have been cleared and the temporary member of staff will be leaving us w/e 18 July. He is now clearing the queries, filing and scanning.
108. Records SLA with the Bar Standards Board - The Records SLA has been finalised to ensure that the aims and objectives for Bar Standards Board are met.
109. Certificates of Good Standing Review - Review the procedure and protocol for Certificate of Good Standing in conjunction with Members' Services Department of the Bar Council, with BSB input.
110. Records Team Review/Restructure – The Records Manager has commenced a review of the roles of the team to ensure that the team is able to meet the aims and objectives that are in the SLA.
111. Barrister Enquiries and Pretending to be Barristers – we have designed a workflow from Records to Bar Standards Board regarding enquiries about Barristers and those pretending to be Barristers.
112. Reminder to Unregistered and Retired Bar re Bar Representation Fee to be sent mid-July before the records are marked as non-subscribers.
113. Reminder to the Practising Bar for Bar Representation Fee - Encourage the Practising bar who have opted out of the Bar Representation Fee, to pay the voluntary subscription, in conjunction with Members' Services.
114. Rights of Audience Review - Review the rights that our members have if they do not have full rights.
115. Improvements on the Core Database - Liaise with IT with regards to improving automation on the Core Database, extra fields and reporting.

116. Input the Bar Council Committees on the Core Database - This allows for the data to be accurate and up- to date so that at any point, any member of staff can access this list for their purpose together with contact details.
117. Working with E&D to assist with their exit survey - The exit survey was run as a paper based survey since 2004. It was run last in 2012 through the Research Department and the response rate was poor. The records manger is assisting in developing the workflow so that that leavers are targeted as soon as possible, after ceasing practice to ensure that responses are received back within a short space of time rather than the annual cycle that has occurred in the past.

*Information Technology*

118. We are recruiting for a new CIO to replace Ben Denison, CIO who leaves this summer.
119. The IT Department hosted a number of additional refresher sessions for members of staff whom were unable to make the initial training session and those who felt they required further guidance or advice.
120. Our Information Security Manager, Amit Bhatt, is progressing the implementation of Outlook Web App and Objective Connect to our board and committee members which will increase the level of security when sharing documents and working collaboratively.
121. We will soon be confirming the dates for further security assessments on our other major systems/services such as Barrister Connect, wireless networks, VPN and external tests.
122. Other projects that are in the pipeline are – ISO 27001 and Cyber Essentials Scheme.
123. Our IT Business Analyst, Steve Scott, is continuing with the review of the Barrister Connect Portal, and development of the new Barrister Connect portal requirements document is progressing well.
124. Work to develop a new Income based Banding requirements document has completed. This has now been sent out to Netxtra and NFP as we require a major change to the portal and changes to the core database for the renewals process for 2015.

Vanessa Davies

Director BSB