

*Note: the timings quoted are indicative only and the meeting may extend beyond the anticipated finish.*



REGULATING BARRISTERS

**Meeting of the Bar Standards Board  
Thursday 21 May 2020, 5.00 pm  
via Star Leaf**

**Agenda - Part 1 – Public**

			<b>Page</b>
1.	<b>Welcome / announcements (5.00 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>		
	• 19 March 2020	Annex A	<b>3-6</b>
5.	a) <b>Matters arising:</b>		
	(i) <b>Proposed Arrangements for Centralised Examinations</b>	BSB 017 (20)	<b>7-10</b>
	(ii) <b>Action List</b>	Annex B	<b>11</b>
	b) <b>Forward agenda</b>	Annex C	<b>13</b>
6.	<b>Health Emergency: BSB response (5.15 pm)</b>	BSB 018 (20)	<b>15-17</b>
7.	<b>Year-end report of the Planning, Resource and Performance Committee (PRP) (5.20 pm)</b>	BSB 019 (20)	<b>19-27</b>
8.	<b>Proposed Amendments to the Standing Orders for Joint Committees and the BSB Constitution (5.30 pm)</b>	BSB 020 (20)	<b>29-52</b>
9.	<b>Handbook Review (5.40 pm)</b>	BSB 021 (20)	<b>53-57</b>
10.	<b>Director General's Strategic Update (public section) (6.10 pm)</b>	BSB 022 (20)	<b>59-60</b>
11.	<b>Chair's Report on Visits and External Meetings (*)</b>	BSB 023 (20)	<b>61</b>
12.	<b>Any other business (6.15 pm)</b>		

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

*Note: the timings quoted are indicative only and the meeting may extend beyond the anticipated finish.*

13. **Dates of next meetings**
- Tuesday 7 July 2020 (joint meeting with OLC Board)
  - Thursday 16 July 2020 (Board Away Day)
  - Thursday 24 September 2020 (Board meeting, preceded by joint meeting with the LSB)

14. **Private Session**

**John Picken**  
**Governance Officer**  
14 May 2020

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

<p>BAR STANDARDS BOARD</p>
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REGULATING BARRISTERS

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

Thursday 19 March 2020 (4.30 pm)

etc venues 51-53 Hatton Garden, Holborn, London EC1N 8HN

- Present:** Baroness Tessa Blackstone (Chair)  
Alison Alden OBE – *by telephone*  
Lara Fielden – *by telephone*  
Steve Haines – *by telephone*  
Andrew Mitchell QC – *by telephone*  
Elizabeth Prochaska – *by telephone*  
Irena Sabic – *by telephone*  
Nicola Sawford  
Adam Solomon QC – *by telephone*  
Kathryn Stone OBE – *by telephone*  
Leslie Thomas QC – *by telephone*  
Stephen Thornton CBE – *by telephone*
- By invitation:** Derek Sweeting QC (Vice Chair, Bar Council)  
Malcolm Cree CBE (Chief Executive, Bar Council) – *by telephone for item 8 only*
- BSB Executive in attendance:** Peter Astrella (Regulatory Risk Manager) – *by telephone*  
Joseph Bailey (Policy Manager – Handbook Review) – *by telephone*  
Ben Burns (Policy Manager, Equality and Access to Justice) – *by telephone*  
Rebecca Forbes (Head of Governance & Corporate Services) – *by telephone*  
Andrew Lamberti (Communications Manager) – *by telephone*  
Rupika Madhura (Head of Policy & Research) – *by telephone*  
Ewen Macleod (Director of Strategy and Policy) – *by telephone*  
Mark Neale CB (Director General)  
John Picken (Governance Officer)  
Amit Papat (Head of Equality and Access to Justice) – *by telephone*  
Wilf White (Director of Communications and Public Engagement) – *by telephone*

**Item 1 – Welcome**

1. The Chair welcomed Members to the meeting. Most joined by telephone as a precautionary measure following the coronavirus outbreak.

2. **Item 2 – Apologies**

- Naomi Ellenbogen QC (Vice Chair, BSB)
- Amanda Pinto QC (Chair, Bar Council)
- Grant Warnsby (Treasurer, Bar Council)
- James Wakefield (Director, COIC)
- Oliver Hanmer (Director of Regulatory Operations)
- Sara Jagger (Director of Legal and Enforcement)

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

3. None.

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

4. The Board approved the Part 1 (public) minutes of the meeting held on Thursday 30 January 2020.

**Item 5a – Matters arising and action points (Annex B)**

5. The Board **noted** the updates to the action list.

**Item 5b – Forward Agenda (Annex C)**

6. Members **noted** the forward agenda list.

**Item 6 – The Bar Standards Board Equality and Diversity Strategy 2020 - 2022**

7. BSB 007 (20)

Amit Popat introduced the report. He stated that:

- the development of the strategy follows extensive consultation with stakeholders with a focus firmly on the role of the BSB as a regulator of legal services;
- it would be helpful to collate views from Board Members prior to the publication date of 2 April 2020.

8. Kathryn Stone commented as follows:

- the risk theme quoted in paragraph 2 implies that working cultures *are* an inhibiting factor whereas it is *damaging* working cultures that are a concern to us. Note – on this point Adam Solomon QC asked that the strategy document explains what we will do to mitigate the risk theme identified;
- “disabled people” is a term that actually represents a diverse group facing a range of different challenges eg mental health, physical health, learning difficulties etc. It may be implicit that the strategy takes this into account, but it would be helpful to have an assurance that this is the case;
- there is considerable knowledge, skills and expertise on E&D matters among Board Members and the Executive could refer to them if, for example, it requires a critical friend or feedback on draft documentation;
- we should not just rely on qualitative research about bullying and harassment but supplement this with quantitative data as well;
- the actions that relate to bullying and harassment should refer to “race *and* ethnicity” and “sex *and* gender” (where appropriate) as these are separate issues in both cases;
- the extent of a *regulator’s* role in promoting wellbeing is questionable. On this point Members agreed that we should make clear that “engagement of experts” refers to our existing stakeholder networks eg LawCare, BTAS. We do not intend to hire consultants.

9. The following comments were also made:

- the proposed actions mutually reinforce one another, though, as currently written this may not be immediately obvious. We could, therefore, consider a slight redraft to make the linkages more apparent;
- the paper confirms our willingness to work with the Bar Council but to keep our focus fixed on *regulatory* issues. This is welcome and supported;
- we should take into account any guidance by the Equality and Human Rights Commission on bullying and harassment and look to align our strategy with those of other legal regulators.

10. In response Amit Popat commented as follows:

- the risk statement derives from the BSB’s risk outlook. The final E&D strategy document will use more nuanced language;
- our intent is to consider all aspects of disability but from the social model perspective ie that barriers and negative attitudes created by society are the factors that disable people rather than any physical or mental impairment;

## Part 1 - Public

- the offer of support and assistance from the Board is both noted and welcome;
- we do intend to complement our qualitative research with quantitative data from the Bar Council's research on bullying and harassment;
- the point on terminology is accepted and the sections will be reviewed to check that relevant terms are used consistently throughout;
- research by the Bar Council suggested regulatory activities eg supervision, investigation and enforcement can have an effect on wellbeing. The need for clarification about engagement of experts is accepted.

11. **AGREED**

- a) to approve the equality objectives as set out in Annex 1 of the report.
- b) that the final strategy document takes account of the comments mentioned above (cf. mins 8-9).

AP /  
BB**Item 9 – Chair's report on visits and external meetings from November 2019-January 2020**

BSB 004 (20)

12. The Board **noted** the report. The meeting scheduled for 17 March 2020 between the Chair and Anna Bradley did not take place and will be rearranged in due course.

**Item 10 – Any Other Business**13. Impact of Coronavirus restrictions

Derek Sweeting QC referred to government action in response to the threat from coronavirus and the detrimental financial effect this will have on chambers and individual barristers (staff layoffs, court closures, effect of self-isolation measures).

14. Mitigating actions include managing costs more effectively, including those for regulation. The BSB might therefore wish to consider:
- extending the period for authorisation to practise until the end of May 2020; and
  - arranging for staggered payments ie part payment by 31 May 2020 and the balance by 31 October 2020.
15. The latter request would require authorisation to practise certificates to be issued without full payment made.
16. Mark Neale commented that:
- extension of authorisation to practise until May 2020 is already under serious consideration;
  - staggered payments are less straightforward to implement because of the cash flow implications both for the BSB and Bar Council.
17. Andrew Mitchell QC asked whether the BMIF is offering similar concessions given that, for many barristers, insurance payments are higher than regulatory costs. As Vice Chair of the PRP Committee, he expressed concern on the potential impact of staggered payments. He noted the considerable income variation within the Bar and that we should be cautious of any "one-size fits all" policy approach.
18. Derek Sweeting QC confirmed that the BMIF has been contacted on similar lines. The aim is to add flexibility for the benefit of those barristers on lower incomes. Staggered block payments will assist the overall financial position of chambers.
19. There was also a discussion on recent mixed messaging from the judiciary about attendance at Court. This creates a tension between a barrister's professional duty to attend and both the BSB's position that barristers should follow the advice of Public Health England and the Bar Council's view that jury trials should be paused. The most recent guidance from the Family and Civil courts is that cases should proceed remotely. This has been well received by the Bar.

20. **AGREED**  
to note and consider the representations from the Bar Council on extending the period for authorisation to practise to 31 May 2020 and for staggered payments. **MN**
- Item 11 – Date of next meeting**
21. • Thursday 21 May 2020.
- Item 12 – Private Session**
22. The following motion, proposed by the Chair and duly seconded, was agreed.  
That the BSB will go into private session to consider the next items of business:
- (1) Approval of Part 2 (private) minutes – 30 January 2020;
  - (2) Matters arising and action points – Part 2;
  - (3) Handbook Review;
  - (4) Business Plan and Budget 2020/21
  - (5) Board Diversity Summary
  - (6) BSB Consolidated Risk Report – March 2020
  - (7) IGR Compliance Update
  - (8) Director General’s Strategic Update – March 2020
  - (9) Any other private business.
23. The meeting finished at 5.10 pm.

<b>Meeting:</b>	Bar Standards Board	<b>Date:</b>	21 May 2020
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<b>Title:</b>	Proposed arrangements for centralised examinations
<b>Author:</b>	Oliver Hanmer
<b>Post:</b>	Director of Regulatory Operations

<b>Paper for:</b>	<b>Decision:</b> <input checked="" type="checkbox"/>	<b>Discussion</b> <input type="checkbox"/>	<b>Noting</b> <input checked="" type="checkbox"/>	Other: <input type="checkbox"/> (enter text)
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### Recommendations

1. The Board is invited to:
  - a. **Confirm** its decision taken out of committee to approve the development of a computer based system for centralised assessments in August 2020
  - b. **Note** progress since that decision

### Executive Summary

2. The Board received a paper out of committee seeking approval for the development of a computer based solution for the centralised assessments in August 2020. This follows the decision to postpone the April sit of these assessment in the light of restrictions on travel and social distancing. The Board gave its approval and is now asked to formally ratify that decision.
3. Following the Board's approval, we have contracted with Pearson VUE to deliver the assessments in August. This was announced in a press release on 13 May along with a series of FAQs.
4. We are working through the practical implications of a remotely proctored assessment and have engaged with BPTC providers and others to ensure that they will run smoothly and be as accessible as possible.
5. The Board will be kept apprised of any material developments through routine DG reporting.

### Risk

6. See paper.

### Resources (Finance, IT, HR)

7. See paper.

### Equality & Diversity

8. See paper.





**Proposed arrangements for the centralised examinations****Centralised examinations – ratification of decision taken out of committee**

1. The Board received a paper out of committee seeking approval of the development of a computer based solution for the centralised assessments (the paper is not reproduced here as it contains sensitive commercial information). This follows the decision in March to postpone the April sit of these assessments in recognition of government advice regarding measures to combat coronavirus/COVID-19 which would prohibit the physical gatherings necessary to hold the exams in the usual way. The BSB has responsibility for setting and marking the civil litigation, criminal litigation and professional ethics assessments in the BPTC (with the remainder of assessments managed locally by training providers).
2. The Board gave its approval and we have since contracted with Pearson VUE to develop and deliver the computer based assessments. In line with the Board's Standing Order 41d, the Board is asked to formally ratify its earlier decision to proceed with online examinations as set out in BSB Paper 016 (20).
3. The Board is asked to note that the usual tendering process was not able to be followed when appointing Pearson VUE. The exceptional nature of present circumstances made a tendering process impractical. Time was of the essence to enable students to take their exams at the earliest opportunity. Suppliers offering computer based remote proctoring have seen a massive surge in demand and are therefore prioritising existing clients.
4. As an existing client of Pearson VUE, we have been given assurance that the exams will be ready in line with our August timeframe and their system will also integrate with our marking platform, so marking can begin immediately after the exams have been sat. We investigated a similar solution with another supplier and the earliest we might be accommodated by them would be September and their system would not integrate with our marking platform, so there would be a delay before marking could start.

**Progress update**

5. The decision to offer a computer based form of assessment was formally announced on 13 May 2020 and we have held constructive discussions with the BPTC providers about the practicalities associated with an exam format of this kind. We have also been in communication with the Inns and the Bar Council so they can provide support to students and AETOs. We have published a series of FAQs to provide answers to the most likely questions and will continue to update them in the lead up to the assessments in August. Providers will capture information from their students about the reasonable adjustments that they will require, and we will then assess how they can be accommodated. We will work with educational and disability experts to make the assessment as accessible as possible.
6. The BPTC results will be released in the first week of November. This means that those who are currently undertaking the BPTC and are due to start pupillage in September or October will not have their results before they take up pupillage. The majority (around two thirds) of people starting pupillage will have completed the BPTC in a previous year and the numbers therefore who won't have received their results and who are due to start pupillage are relatively low. We have, in these unusual circumstances, agreed to waive our requirements and will therefore allow pupils to start pupillage pending their BPTC results.

7. It will be for the AETO and the pupil to decide if they want to take advantage of that waiver and we will provide guidance on the factors that they should take into consideration. We will though be strongly encouraging AETOs to allow pupils to start pupillage as planned. AETOs and pupils will be asked to sign an agreement that they understand and accept the risks of starting pupillage pending BPTC results and to provide that agreement to the BSB. This helps safeguard all parties and enables us to track those who are operating under the terms of the waiver.
8. There remains much work to do in the lead up to the August examination. The Board will be kept apprised of progress through the routine DG reports. A report following the assessment will be produced and shared with the Board for information in the Autumn.

**Lead responsibility**

Dr Victoria Stec, Head of Authorisation  
Oliver Hanmer, Director of Regulatory Operations

**BSB – List of Part 1 Actions**  
**21 May 2020**  
*(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
11b (19/03/20) – E&D Strategy 2020-2022	ensure the final E&D strategy document takes account of the comments mentioned at the March Board meeting (cf. mins 8-9 – 19/03/20).	Amit Popat / Ben Burns	before 2 April 2020	07/04/20	<b>Completed</b> – revised strategy published on website
20 (19/03/20) – AOB – authorisation to practise	consider the representations from the Bar Council on extending the period for authorisation to practise to 31 May 2020 and for staggered payments	Mark Neale	immediate	30/03/20	<b>Completed</b> Period for authorisation to practise extended to 31 May 2020 (press release updated 26 March) and staggered payments arrangements agreed and announced at Bar Council 28 March 2020



**Forward Agendas****Tuesday 7 July (Joint meeting with the OLC 11.30 am – 1.00 pm)****Thursday 16 July 20 (BOARD AWAY DAY)**

- Handbook Review – principles and approach
- Health Emergency – wider implications
- Board Evaluation Survey – outcome

**Thursday 24 September 20 (*inc. Joint Meeting with the LSB 3.30 pm – 4.45 pm, pending confirmation with LSB*)**

- Regulatory Decision Making Performance Report 2019/20
- IDB Annual Report
- Budget 2021/22
- Consolidated Risk Report
- Assuring Competence
- Proposed changes to BSB Standing Orders

**Thursday 26 November 20**

- PRP mid-year performance report
- GRA Annual Report
- Corporate Risk Report (summary)
- Computer based assessment – review
- Fee proposals – ethics examination

**Thursday 28 January 21****Thursday 25 March 21**

- Consolidated Risk Report
- Regulatory Return



**Health emergency: BSB response****Status**

1. For discussion and comment.

**Executive Summary**

2. BSB's short-term, tactical objective during the health emergency is to maintain our regulatory capacity and competence, while making sensible savings to offset likely pressures on our income in 2021/22 and, by doing so, to take into account the likely impact of the virus on Bar students, pupils and the profession. Our strategic objective is to identify the potential longer-term implications of the health crisis for the Bar's integrity, independence and diversity and to plan any necessary regulatory responses.

**Recommendation**

3. The Board is asked to endorse the objectives we have drawn up and to discuss our approach to meeting those objectives in both the short and longer-term.

**Health emergency: BSB objectives**

4. The health emergency has both a short-term tactical dimension and strategic longer-term implications.
5. The short-term imperative is to respond flexibly to the immediate pressures generated by the crisis, including to the risks it presents to the BSB's income from the Practising Certificate Fee (PCF) and from other sources. We expect those risks to be most acute in 2021/22. Accordingly, we set the objective for our immediate response to be to maintain our regulatory responsibilities and capacity to act, but, subject to that, to identify savings that will offset likely future pressures. We are also conscious of the symbolic importance of showing that we are seeking to minimise the costs of regulation given the pain being experienced by the profession, though we must of course maintain regulatory competence.
6. Simultaneously, we must be alert to the impact of the crisis on the longer-term health of Bar and its ways of working. Accordingly, we have set a strategic objective to identify, through our Regulatory Return and other means, these more far-reaching implications and to begin to develop our regulatory response.

**Responding to the crisis: the short-term**

7. The immediate impact of the crisis has been to put pressure on our resources without materially diminishing workload. Although the transition to remote working has gone very smoothly and the BSB's people have risen to the challenge, we have lost colleagues intermittently through sickness. Many colleagues are also juggling work and caring responsibilities and so are unable to be as focused as they might otherwise be. Meanwhile, BSB's work has scarcely diminished and, in some key respects, has grown very significantly. We have, for example, had to work through the implications of the cancellation of the April sit of our central examinations. The Authorisation Team has done an outstanding job of developing a remote alternative for the August sit in very short order. And we have had to clarify how our regulations apply in the changed circumstances of the health emergency. We have now made an announcement about the former and issued and updated advice about the latter.

8. At the same time, we have been very conscious of the acute pressures on the Bar and of the likely implications for BSB's future income. That income is reasonably secure for this year – 2020/21 – because the PCF (£10.3 million) is based on barristers' incomes in the calendar year 2019. Together with the Bar Council, we have offered some barristers the facility to pay in two instalments. Although this creates an increased financial risk when the second instalment falls due in October, we have judged it to be tolerable and are looking at ways to further mitigate it. Our other income from BPTC enrolments, examinations and other sources (£1.5 million) is also mostly accounted for this year
9. We can, however, expect both sources of income to come under pressure for 2021/22, although just how much pressure is hard to predict when there is continuing uncertainty about the duration of current restrictions on economic activity and on travel. We can be sure barristers' incomes will be badly hit in the second quarter of this calendar year, particularly for the Criminal Bar with Courts suspended, but we cannot call the scale of any rebound in the second half of the year. Because of this uncertainty, we have agreed with the Bar Council on the need for regular surveys of chambers to take stock of changes in actual and prospective barrister incomes.
10. We also intend to use the Regulatory Return to gather information – of which more below. We shall present the emerging evidence of these surveys to the Board at future meetings and model the potential impact on our income.
11. We have also looked carefully at our business plan to consider where we may be able to postpone activity or to make savings consistent with our objective of maintaining regulatory capacity. As the Board will be aware, we have made some adjustments to our plans for this year, particularly where we judged that the pressures on both BSB and the Bar precluded short-term progress. So, for example, we have pushed back issuing the Regulatory Return until the early Autumn (although there is significant work involved in re-working many questions to capture the impact of the health emergency).
12. Partly as a result of these changes, we have been able to freeze non-essential recruitment, though we cannot sensibly predict what saving might be available from doing so because we can neither predict how many people will leave during the year – though probably fewer than normal – nor whether the departures will be from posts we judge essential or non-essential. We shall update the Board as the year goes by. We have also, in common with the Bar Council, announced a pay freeze which, if applied throughout the year, will save £110,000 for the BSB alone, and a total saving of £208,000 across the whole entity.
13. We have not felt able to make savings in two other respects, however, because of the adverse impact on our regulatory capacity. We do not see scope for furloughing BSB people because, as noted above, we remain fully committed. The SRA is taking the same approach. We have also considered, but rejected, freezing planned investment in our case management system and in the on-line registration of students and pupils (MyBar for pupils). Our cost-benefit analysis indicates that a freeze would yield a short-term saving of around £170 000, but would forego significant efficiency gains for BSB and, in the case of student registration, would require us, in the absence of an online system, to maintain manually around 2 000 student profiles.



**Responding to the crisis: longer-term implications**

14. Alongside the short-term response, we have also begun to analyse the longer-term implications of the health emergency for the Bar. These are, in a sense, provisional only at this early stage, but we are currently focusing on four:
- the future supply of barristers if current pressures cause pupillages to be withdrawn or some barristers feel that they must leave the profession;
  - the future of chambers and the infrastructure of support chambers provide, including for pupillage, if remote working becomes more common, superseding physical chambers;
  - the training and continuing professional development consequences if many more hearings are held remotely in future; and
  - the consequences of remote working and the pressures of the crisis for the well-being of barristers.
15. The early evidence on the supply of pupillage places is mixed. The Bar Council survey undertaken at the beginning of April indicated that 30% of chambers are changing their plans for pupillage starting in 2020 or 2021 (and will not be taking pupils as planned in 2020 or 2021). We have also, however, heard of chambers which are more optimistic and planning to take on additional pupils. Against this background, we have issued our own survey of chambers which provide pupillage in order to assess the potential impact on the future supply of places. We shall also gather further intelligence through the Regulatory Return. If the evidence is that there is likely to be a significant fall in pupil places, we shall consider what action we and the Bar Council might take to sustain supply
16. Chambers are now operating remotely. We also know that many chambers are under financial pressure. In the Bar Council survey (assuming that the current circumstances continue) 50% indicated that they could not survive for 6 months; 83% could not survive 12 months. It must be a possibility that, as restrictions are lifted, some chambers elect for financial and other reasons to continue to operate virtually in the light of their experience during the crisis. This would potentially have significant implications for many of the support services and collegiality provided by chambers, included for support for pupils and for diversity. We shall use the Regulatory Return to collect intelligence about the intentions of chambers and consider the regulatory implications.
17. Similarly, many court hearings are now being held remotely; this practice may continue as the crisis subsides, particularly as backlogs are cleared. Indeed, some changes to ways of working in the Courts may become permanent. If so, this would raise significant issues for continuing professional development, particularly, perhaps, for older barristers with less experience of the technologies involved. We shall engage with the Inns and with training providers to consider the implications.
18. Finally, the crisis is bound to challenge the mental health of many barristers who will simultaneously face financial pressure and isolation. This underlines the well-being strand of the Equality and Diversity Strategy we published earlier this month. We shall want to work closely with the Bar Council in taking this work forward.

**Next steps**

19. Does the Board agree both the short-term and longer-term objectives we have set? Does the Board have any observations about the approach we have taken to address those objectives?



<b>Meeting:</b>	Bar Standards Board	<b>Date:</b>	21 May 2020
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<b>Title:</b>	BSB Planning, Resources & Performance (PRP) Committee end of year report
<b>Author:</b>	Rebecca Forbes
<b>Post:</b>	Head of Governance and Corporate Services

<b>Paper for:</b>	<b>Decision:</b> <input type="checkbox"/>	<b>Discussion:</b> <input type="checkbox"/>	<b>Noting:</b> <input checked="" type="checkbox"/>	<b>Other:</b> <input type="checkbox"/> (enter text)
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## Recommendations

<ol style="list-style-type: none"> <li>1.             <ol style="list-style-type: none"> <li>a) <b>Note</b> the performance dashboard reporting on the end of year progress against business plan activities and key performance indicators (KPIs) provided in Annex 1. The majority of business activities have met the published timetable;</li> <li>b) <b>Note the assurance</b> that the Committee has scrutinised the detailed quarterly performance Reports.</li> </ol> </li> </ol>
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## Executive Summary

<ol style="list-style-type: none"> <li>2. Under our governance arrangements, the Planning, Resources and Performance (PRP) Committee reports twice a year to the Board on the performance of the BSB against its business plan commitments, KPIs and its budget. This report provides a high level summary of performance over the second half of the year. It does not reiterate the mid-year report.</li> <li>3. Most business plan activities were completed in line with the published commitments or with revised time frames agreed by the Board, Programme Boards or the Senior Management Team. Five activities within the published business plan had quarterly milestones amended through the year and two activities were not completed in line with our published commitments.</li> <li>4. The KPIs were revised from October due to our departmental and operational restructure and were partially met. The Contact and Assessment team met most KPIs in quarter three and exceeded its KPIs in quarter four. The Investigations and Hearings Team did not meet KPIs at year end and rationale is within the attached paper. The Authorisations team met most KPIs in quarter three but staffing issues following the restructure in October impacted performance against KPIs in quarter four.</li> <li>5. The PRP has reflected on its work in the last year and how that translates into improvements in the BSB's continuing performance as well as our effectiveness in monitoring and scrutiny – what worked well, any lessons learned for us or the executive, and what might still impact performance into the coming year.             <ol style="list-style-type: none"> <li>a) <b>What worked well</b> <p>We consider that the oversight of Programme Boards as well as the Senior Management Team has been instrumental in early identification of any barriers to delivery or reasons for deviation from plans agreed at the beginning of the year. We find it more useful to consider early where the scope or timing of work agreed in the business planning process (sometimes some months prior) should be reconsidered.</p> </li> </ol> </li> </ol>
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**b) Lessons Learned**

Both the committee and the executive have reflected on the impacts of the lean staff resourcing model, and the need to balance our budgetary constraints with delivery of our core functions, This is most acute in performance against KPIs, and we are conscious of the stress that undue delays in investigations can create, as well as the impacts of high workload on staff.

**c) Continuing impacts**

As we start to monitor performance in this next business year, we are alert to the continuing impacts of the issues caused by turnover late last year. The Covid-19 crisis will continue to impact and to change ways of working. We will support the executive in agreeing systems for monitoring which are transparent and proportionate in these extraordinary times.

6. At the end of the 2019/20 business year, the BSB had received £11,325k in income against a budget of £10,562k and expenditure amounted to £10,258k against a budget of £10,035k. This is a variance of £763k in income and £223k in expenditure. At the end of the business year the BSB had a net surplus of just under £1,068k.

**Risks**

7. Managing the competing demands of the BSB and the Bar Council by the centralised services of IT, HR and Finances is a feature of the governance model within which we currently operate. Whilst controls are in place to mitigate the risks to the delivery of BSB projects and to ensure that they are given proper priority, it nevertheless remains an area that is the subject of close scrutiny by both the executive and PRP.

**Year-end report of the Planning, Resource and Performance Committee (PRP)**

1. The PRP Committee has reviewed the year-end performance against business plan activities set out in the [2019 -20 Business Plan](#)<sup>1</sup> (summarised in the dashboard at Annex 1) at its meeting on 30 April 2020.
2. Five activities within the published business plan had the scope of work and/or timeframes for delivery of key milestones revised following decisions of the Board, a Committee or the Senior Management Team (SMT). The five activities were the issuing of the Regulatory return; renewal of BSB equality rules; agreeing our regulatory approach to bullying and harassment; policy work on scope of practice (which has been incorporated into the Handbook review); and assuring standards of competence at the Bar. These activities are presented in the dashboard in grey rather than showing as “off track” as there has been a decision at the appropriate level of governance to defer rather than a failure to deliver.
3. All but two of the remaining business plan activities were completed in line with our published commitments. The two activities where we did not meet the published timetable will not have an adverse effect on our ability to deliver the overarching programmes of work.
4. Those two activities were the: development of a new centralised examination in professional ethics; and work on Professional Indemnity Insurance. The published commitment for the development of the new ethics examination was to have the final syllabus approved by year end, but that was in fact only one deliverable in a complex project. The final syllabus is expected to be approved in June and while this activity is strictly off track, there are no consequences for delivery of the project to time and quality.
5. The objective for the activity on Professional Indemnity Insurance was to submit a rule change application on single person entities. The application was submitted but subsequently withdrawn with a view to resubmission with further competition impact analysis included. To this end, an economic assessment was commissioned by Bar Mutual Indemnity Fund and was due to be completed within quarter four. This assessment has been delayed and as a result has delayed the resubmitting of the application.

**KPIs**

6. Key Performance Indicators (KPI)s have been revised from October given our new departmental and operational structure and performance against the new KPIs has been reported to PRP in quarter three and quarter four. Performance at year end is reported to the Board from these two quarters only, as we have not yet conducted any comparison with performance against the KPIs previously in place.
7. KPIs over the last two quarters were not met in part due to the impact of the departmental restructure on staff turnover and in part due to unrelated extraordinary turnover in the Investigations and Hearings Team. It takes time to train and induct new staff and the current pandemic has created additional challenges in continuing to induct and mentor staff effectively.
8. The Contact and Assessment Team exceeded its KPIs at year end which is a reflection of having returned to a full staffing complement after not achieving all KPIs in quarter three.

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<sup>1</sup> <https://www.barstandardsboard.org.uk/resources/bsb-business-plan-2019-20-pdf.html>

9. The Investigations and Enforcement Team is now at full officer complement but this was only achieved early in quarter four and so impacts on performance are acute at year end. The impact of understaffing in quarter three (down by 40%) is still influencing the performance figures and is likely to continue doing so into this next reporting year. The notable underperformance in referral of cases within two weeks (10.7% achieved against a target of 80%) can be attributed to a brief period in October 2019 when it was not possible to allocate cases in the usual manner simply because of a lack of staff. That has now been rectified.
10. The Authorisation Team continues to feel the strain of the restructure that took place in October that resulted in a number of experienced staff leaving the Team and the arrival of new members. This transition and the need to provide training to the new starters impacted on performance against KPIs and created a backlog of cases waiting consideration. A strategy is in place which provides better oversight of case allocation and monitoring which will improve productivity and will reduce the backlog. Performance against KPIs will take time to recover and we would expect to see progress over quarter 1 and 2 with KPIs being met by quarter three.
11. The new structure and processes are settling in and performance in general is improving. There is a risk of a dip in performance if staff capacity reduces through illness or because they have childcare or other caring responsibilities to manage alongside work expectations. This is being closely monitored and work re-allocated or re-prioritised where possible.

### Major programmes

12. Good progress has been made against the BSB's major programmes of work in 2019/2020. Key highlights include:
13. The CMA programme saw the Bar Transparency Rules published in July 2019 to improve the information available to the public before they engage the services of a barrister. The rules, which follow recommendations from the Competition and Markets Authority, relate to information about the areas of law in which barristers practise, the legal services provided by barristers, what those services cost, and a client's right to redress.
14. The Equality & Access to Justice programme completed a comprehensive Equality Impact Assessment of the Equality Rules to assess their effectiveness at influencing working cultures at the Bar, and their impact on our regulatory objective to encourage a diverse profession. As part of the Assessment, we engaged with, and gathered evidence from, a wide range of stakeholders. A new Race Equality Taskforce was also established to advise on, and shape, our approach to race equality at the Bar.
15. The Regulatory Operations programme went live as planned in October 2019 to modernise our regulatory decision-making by streamlining and improving the way that we assess and handle reports about those whom we regulate. The reforms included the establishment of a new Independent Decision-making Body to take independent enforcement and other regulatory decisions, the new role of Independent Reviewer to carry out reviews of individual decisions and to provide assurance, and a new Contact and Assessment Team.

16. In line with this, our new website was launched which makes it easier for the profession and the public to access the information they need. The new website also contains enhanced public legal education for consumers including advice about how to access legal services, how to find and use a barrister, and how to report a concern to us. A new [BSB Handbook feature](#) made searching for specific rules simpler and easier, without having to download the Handbook. It includes dedicated sections for the public, for students, and for barristers and other legal professionals, containing everything they need to know about our rules and guidance. The Regulatory Operations programme has now been successfully delivered.
17. The Future Bar training programme launched an online portal and Authorisation framework to assess applications from Bar Training providers to ensure that training to become a barrister becomes more accessible, affordable and flexible whilst maintaining the high standards of entry expected at the Bar. Changes to the work-based learning or pupillage component of Bar training including the way in which pupils are assessed to reflect the requirements set out in the Professional Statement for Barristers were also published.
18. Good practice guidance for the recruitment and advertising of pupillage was published in January 2020 when we announced that chambers and other AETOs would need to recruit pupils in line with the [Pupillage Gateway](#) timetable in order to make pupillage recruitment fairer and more consistent. We announced a new requirement from 1 May 2020 for written agreements between pupils and their chambers (or other AETO) in order to improve each party's awareness of their obligations. We also increased the minimum funding award for pupillage which all organisations providing pupillage or periods of work-based learning for the Bar must pay to their pupils. It is set having regard to the Living Wage Foundation's hourly rate recommendations.
19. 2020 will see the continued delivery of the Equality & Access to Justice, CMA & FBT programmes along with the launch of the new Learning and Development, Internal Governance Rules and Handbook Review programmes.

### Resources

20. Staff turnover increased to 34% for the year ending 31 March 2020, compared to 28% for the previous year, with voluntary turnover of 17% and involuntary turnover at just under 17%. In addition, three fixed term employees concluded their contracts in the period. PRP scrutinises these figures at least quarterly and is assured that there are no underlying systemic issues that are not being addressed. The disestablishment of the Professional Conduct and Regulatory Assurance departments and establishment of the Legal & Enforcement and Regulatory Operations departments was the main reason for this increase in staff turnover from April 2019 to March 2020.

### Finance

21. Annex 2 provides the headline financial performance information. In the year ending 31 March 2020, the BSB received £1,597k in income against a budget of £1,059k. This is our directly controlled income i.e. does not include income from the PCF. We exceeded our budget by £538K, due to over collections in the Bar Course Aptitude Test (BCAT), Bar Professional Training Course (BPTC), Bar Transfer Test (BTT) and income from authorisations. The variance is understood to be due in part to an increased per-capita fee for BPTC enrolments for a not unusual number of students but where we had also budgeted for a lower number of students given the uncertainty on uptake caused by our reforms to Bar training.

22. Expenditure at year end was £5,455k against a budget of £5,614, an underspend of £158k equating to just under 3% against budget. The underspend on salaries was offset by the additional spend on staff recruitment and temporary staff costs substantially due to the implementation of the Legal and Enforcement department and Regulatory Operations department restructure.
23. The variance in non-staff costs is attributable to underspends in examinations, on communication activities and unspent provisions for various legal costs, legal defence costs and representation costs. When confirming the budget for the current financial year, we interrogated the reasons for the underspend in examinations in particular, to be assured that there were no errors in our underlying budget assumptions that were being carried forward.
24. The PCF income which forms part of the BSB's income is now presented excluding the amount paid to the LSB and LeO – in previous reports, both our income and expenditure included the amounts paid to the LSB and LeO. PCF income received for the year amounted to £10,003k and non-operating expenditure amounted to £4,803k. The final position at the end of the year was a net surplus of £1,068k.

**BSB and Resource Group (RG)**

25. The Information Services team has supported the organisation in ensuring staff had equipment and access so that we could all wholly work from home during nationwide lockdown as a result of COVID-19. The finance team is working with budget holders across the entity to scope and mitigate the possible financial implications of COVID-19.
26. All phases of the office refurbishment programme are now complete. A full project evaluation is being worked on in readiness for the June Finance Committee meeting.
27. The Business Continuity Plan is now completed, signed off and has been successfully tested with the recent burglary and by the on-set of COVID-19.

**Annexes**

28. Annex 1 – Year-end Performance Dashboard  
Annex 2 – Management Accounts summary

**Lead responsibility**

Steven Haines, Chair of PRP Committee  
Rebecca Forbes, Head of Governance and Corporate Services



## End of year performance Dashboard (2019-20)

### Strategic Aim 1

Delivering risk-based, effective and targeted regulation

Task	Assigned to	Size	Priority	Status/ On Target	Budget	Ctrl	Ref
1 Review of the BSB Handbook	S&P	3	High	<span style="color: green;">●</span>	<span style="color: green;">●</span>	BSB	
2 Enforcement	LED	1	Medium	Complete		BSB	
3 Regulatory return	ROD	2	Medium			BSB	
4 Money Laundering/Terrorist Financing	ROD	2	High	Complete		BSB	
5 Establishment of CAT and IDB	ROD	4	High	Complete		BSB	
6 FBT - Professional Ethics exam	ROD	2	High	<span style="color: orange;">●</span>	<span style="color: green;">●</span>	BSB	
7 FBT – evaluation	S&P	2	High	<span style="color: green;">●</span>	<span style="color: green;">●</span>	BSB	
8 Regulatory Risk	S&P	2	High	<span style="color: green;">●</span>	<span style="color: green;">●</span>	BSB	

### Strategic Aim 2

Encouraging an independent, strong, diverse and effective legal profession

Task	Assigned to	Size	Priority	Status/ On Target	Budget	Ctrl	Ref
9 Renewal of BSB Equality Rules	S&P	2	Medium			BSB	
10 Bullying and Harassment	S&P	3	High			BSB	
11 FBT – Pupillage reform	ROD	2	High	Complete		BSB	
12 FBT – Pupillage recruitment	ROD	2	High	Complete		BSB	
13 Race equality	S&P	1	Medium	Complete		BSB	
14 Scope of practice	S&P	2	Medium			BSB	
15 Research publications	S&P	2	Medium	Complete		BSB	
16 Immigration	S&P	1	Medium	Complete		BSB	
17 Professional Indemnity Insurance	S&P	1	Medium	<span style="color: red;">●</span>	<span style="color: green;">●</span>	BSB	

### Strategic Aim 3

Advancing access to justice in a changing market

Task	Assigned to	Size	Priority	Status/ On Target	Budget	Ctrl	Ref
18 Assuring standards at the Bar	ROD	1	High			BSB	
19 CPD evaluation	ROD	2	Medium	Complete		BSB	
20 BSB website	CPE	4	Medium	Complete		BSB	
21 CMA evaluation	S&P	2	High	<span style="color: green;">●</span>	<span style="color: green;">●</span>	BSB	

#### 2019 - 20 Q4 YTD Actuals v Budget

	(k)	(k)	(k)
	Actual	Budget	Var
Income	1,597	1,059	538
Expenditure	5,455	5,614	158

#### Key

Size ↑ 4 Large piece of work  
↓ 1 Small piece of work

#### Weighting



#### KPIs

##### General Enquiries

The % of substantive responses to general enquires, that can be addressed by CAT, provided within 5 working days



The % of general enquiries, which cannot be answered by CAT, that are referred to another team within 3 working days



##### Initial Assessment

The % of reports assessed and concluded by CAT, or referred to another team for action, within 8 weeks



##### Referral of cases

The % of cases referred by CAT to another team for regulatory action that are accepted or referred back to CAT within 2 weeks



##### Investigation or allegations

The % of investigation of allegations of breaches of the Handbook completed, and a decision taken on disposal, within 25 weeks of acceptance



##### Quality Indicators

% of cases where the Independent Reviewer upholds the original decision following a request for a review



No successful appeals against the imposition of administrative sanctions



No successful appeals of DT decisions attributable to procedural or other error by the BSB or discrimination in the decision-making process.



##### Authorisation, exemption and waivers

The % of applications determined within six weeks of receipt of the complete application



The % of applications determined within eight weeks of receipt of the complete application



The % of applications determined within twelve weeks of receipt of the complete application



##### Entity (including ABS) Authorisation

The % of authorisation decisions made within six months of receipt of the application and associated fee



The % of authorisation decisions made within nine months of receipt of the application and associated fee





**General Council of The Bar**  
**Bar Standards Board**  
**BSB Summary**  
**Mar-20**

	Month Actual	Month Budget	Variance F/(A)	Y-T-D Actual	Y-T-D Budget	Variance F/(A)	Annual Budget	Remaining Budget
<b>Income</b>								
Practising Certificate Fees	833,585	814,805	18,780	10,003,020	9,777,662	225,358	9,777,662	225,358
Less: Prior Year-End Stats Adjustment	(22,869)	(22,865)	(4)	(274,428)	(274,424)	(4)	(274,424)	(4)
Other Regulatory Income	82,268	31,036	51,233	1,597,168	1,059,200	537,968	1,059,200	537,968
<b>Total Income</b>	892,984	822,976	70,009	11,325,760	10,562,438	763,322	10,562,438	763,322
<b>Operating Expenditure</b>								
Staff Costs - Salary Related	339,199	364,244	25,045	4,205,156	4,302,635	97,478	4,302,635	97,478
Staff Costs - Temp Staff/Recruitment	22,754	4,276	(18,478)	160,058	42,122	(117,936)	42,122	(117,936)
Staff Costs - Non- Salary Related	3,714	7,381	3,666	43,179	58,475	15,296	58,475	15,296
Non - Staff Costs	206,187	233,529	27,342	1,046,986	1,210,422	163,436	1,210,422	163,436
<b>Total Operating Expenditure</b>	571,855	609,430	37,575	5,455,379	5,613,654	158,275	5,613,654	158,275
<b>Net Surplus / (Loss) before Adjustments</b>	321,130	213,546	107,584	5,870,381	4,948,784	921,597	4,948,784	921,597
<b>Non-Operating Expenditure</b>								
Share of RGP Cost	342,592	271,579	(71,013)	3,794,443	3,519,665	(274,778)	3,519,665	(274,778)
Share of DB Pension Cost	75,124	75,124	0	901,488	901,488	0	901,488	0
Share of Annual Leave Liability	106,697	0	(106,697)	106,697	0	(106,697)	0	(106,697)
<b>Total Costs</b>	524,413	346,703	(177,710)	4,802,628	4,421,153	(381,475)	4,421,153	(381,475)
<b>Net Surplus / (Loss)</b>	(203,283)	(133,157)	(70,126)	1,067,753	527,631	540,122	527,631	540,122



<b>Meeting:</b>	Bar Standards Board	<b>Date:</b>	21 May 2020
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<b>Title:</b>	Proposed Amendments to the Standing Orders for Joint Committees and the BSB Constitution		
<b>Author:</b>	Rebecca Forbes		
<b>Post:</b>	Head of Governance and Corporate Services		

<b>Paper for:</b>	<b>Decision:</b> <input checked="" type="checkbox"/>	<b>Discussion:</b> <input checked="" type="checkbox"/>	<b>Noting:</b> <input type="checkbox"/>	Other: <input type="checkbox"/> (enter text)
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### Recommendation

<ol style="list-style-type: none"> <li>1. The Board is asked to <b>approve</b> the proposed amendments to the Standing Orders for Joint Committees of the General Council of the Bar and the Bar Standards Board at Annex A, including authority for the executive to make the necessary changes to language for gender neutrality only.</li> <li>2. The Board is asked to <b>approve</b> the proposed amendments to its Constitution.</li> </ol>
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### Executive Summary

<ol style="list-style-type: none"> <li>3. The LSB's revised Internal Governance Rules (IGRs) effective from July 2019 require changes to the Terms of Reference for our Joint Committees. These are necessary for compliance and must be agreed before 23 July 2020. The proposed amendments achieve parity of membership and ensure compliance with the specific rules which prohibit dual roles, require that the BSB independently formulates its own budget, and that the BSB independently assesses remuneration for Board members.</li> <li>4. Standing Orders for Joint Committees require approval by both the Bar Council and the Board. The meeting of the Bar Council on 16 May 2020 will consider a similar recommendation to approve these Standing Orders for Joint Committees. We will provide a verbal update on the decision of the Bar Council at the meeting. If both the Bar Council and the Board approve the amendments, the revised Standing Orders will take effect from 21 May 2020.</li> <li>5. The attached substantive Board paper summarises at a high level what we have proposed and our rationale, whilst Annex 1 sets out the exact detail of the proposals for the Joint Committees.</li> <li>6. The proposed changes to the BSB's Constitution are to correct an error in numbering and to revise the processes for reappointment of the Chair and Board members so that is wholly within the Board's gift (rather than convening Panels with the same composition as for recruitment of new members). Changes to the BSB's Constitution are now to the Board to independently approve.</li> </ol>
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**Risk**

7. The amendments to the Joint Committees have been proposed primarily to reflect the IGRs 2019, which the BSB and the Bar Council are required to comply with under the LSA 2007. If the Board does not approve the proposed amendments, this risks non-compliance with the IGRs. Whilst we may not achieve full compliance with all the detail of the Statutory Guidance by 23 July, these changes are essential for compliance with the higher level Rules.

**Resources (Finance, IT, HR)**

8. It is not anticipated that the proposed amendments to the Joint Committees will have any significant impact on Finance, IT and HR. The changes are cost neutral – as we retain the same number of lay, independent members overall, costs on fees are unchanged. The proposed amendments to the BSB’s Constitution make a small cost-saving as we will not incur fees for a lay, independent member to consider reappointments of the Chair and Board members.

**Equality & Diversity**

9. It is not anticipated that the proposed amendments to the Joint Committees or to the Constitution will have any impact on any group with protected characteristics under the Equality Act 2010.

## Proposed Amendments to the Standing Orders for Joint Committees, and to the BSB Constitution

### Introduction

1. The LSB has published revised Internal Governance Rules (IGRs)<sup>1</sup> and associated Statutory Guidance<sup>2</sup> effective from July 2019. Compliance is necessary by 23 July 2020, and as a minimum requires change to our Constitutional arrangements (already achieved) and to the arrangements for the Joint Committees with the General Council of the Bar.
2. The Standing Orders for Joint Committees of the General Council of the Bar of England and Wales and the Bar Standards Board are jointly agreed and require approval by both bodies. At its meeting on 16 May, the Bar Council will therefore consider a recommendation to approve the amended Standing Orders for Joint Committees.
3. The proposed amendments to Standing Orders for Joint Committees have been the subject of consultation with the affected committees (the joint Finance and Audit Committees) and with the Board's own standing committees (the Governance, Risk and Audit (GRA) Committee and the Planning, Resources and Performance (PRP) Committee). For the Bar Council, they have also been scrutinised and agreed by the General Management Committee.
4. Pending our verbal advice on the decision of the Bar Council on 16 May, the Board is now asked to agree the amendments to the Standing Orders for Joint Committees.
5. Prior to consultation with the various committees and the General Management Committee, there were some months of discussion with the executive and Office Holders of the Bar Council to negotiate these changes. We have achieved those changes we deem most important, whilst making some small concessions (such as allowing the Chair's Committee to remain within Standing Orders albeit without any decision-making powers).
6. The Standing Orders for Joint Committees use gendered language. Approval will be sought from the Bar Council to change the language to be gender neutral. The Board is reminded of its standing resolution in May 2017 to adopt gender-neutral language as a matter of policy. We are therefore also seeking approval to make the changes necessary for gender neutrality of language only subsequent to the meeting.
7. The Board is also asked to agree the changes to its own Constitution set out below. Our Constitution states that the Board may amend its Constitution "only after consulting the Bar Council". We have sent a paper outlining these changes to the Bar Council for its consideration on 16 May and can provide a verbal update on its response. Whilst we do not expect any resistance to these (relatively minor) changes, it is within the Board's gift to make the amendments regardless of the Bar Council's views.
8. Our original timetable had been for the Board to consider the changes to Standing Orders for Joint Committees together with our proposals for change to the BSB's own Standing Orders – including to Terms of Reference for GRA and PRP. However, our work on the BSB's own Standing Orders is not sufficiently well progressed to present at this time. Further, when it considered proposals for changes to its Terms of Reference, PRP requested that we use the scheduled Board evaluation survey in the summer to again consider those functions which should be delegated to committees and how those committees should be structured. We note that these changes to the

<sup>1</sup> <https://www.legalservicesboard.org.uk/wp-content/uploads/2019/07/IGR-2019.pdf>

<sup>2</sup> <https://www.legalservicesboard.org.uk/wp-content/uploads/2019/07/IGR-Guidance-July-2019.pdf>

arrangements for the Joint Committees are necessary for compliance with the IGRs, whereas changes to the BSB's own Standing Orders do not materially affect our compliance with the IGRs and are only to continue the iterative process of refinement of our governance.

9. The Bar Council and BSB currently share four joint committees: the Finance Committee, the Audit Committee, the Emoluments Committee (a sub-committee of the Finance Committee) and the Chairs' Committee (which does not have a decision making function). The terms of reference, membership provisions and appointments processes for these committees are set out in the Standing Orders for Joint Committees.

### **Proposed amendments to the Standing Orders for Joint Committees**

10. Full details of the proposed amendments to the Standing Orders for Joint Committees can be found in Annex 1 (with some explanatory comments left for the Board's reference). We have not rehearsed the rationale for each of the proposed amendments again in this covering paper. As well as those necessary for IGR compliance, we have proposed some changes to enshrine existing custom and practice, provide additional clarification and simplify language.
11. The IGRs which affect the joint committees, (directly or indirectly), are:
  - a) Rule 4 (Regulatory Autonomy): it is for the BSB to determine its own governance, structure, priorities and strategy. The Bar Council and BSB Constitutions have both been amended to allow the BSB to make changes to its own Constitution without requiring Bar Council approval.
  - b) Rule 5 (Prohibition on Dual Roles): "no person who is involved in decisions relating to regulatory functions may also be involved in the representative functions of the Approved Regulator". This has particular ramifications for the Treasurer of the Bar Council who is elected by the Bar Council but chairs the Finance Committee (and the Emoluments Committee). Under the new IGRs it is not possible for this chairmanship to continue, though the Treasurer may remain a member of the Finance Committee if the Bar Council nominates that person as one of their members. This Rule does not apply to persons who have a role within shared services (Resources Group).
  - c) Rule 8 (The Regulatory Board: Appointments and Terminations): the BSB shall independently appoint, appraise, remunerate and terminate its Board members. This means the Emoluments Committee can no longer have responsibility for setting BSB Board member conditions. The BSB must set the remuneration for its own Director General/Officers and Board/Committee members and so we have reached agreement that the Emoluments Committee will be dissolved, and arrangements put in place to allow the Bar Council and BSB to decide remuneration for their own senior staff and Office Holders.
  - d) Rule 10 (Regulatory Body Budget): the BSB must now formulate its own budget and determine the allocation of its resources. This has particular implications for the work of the Finance and Audit Committees when reviewing and scrutinising budgets. The Bar Council no longer has the final approval for the BSB budget, and that falls to the Board itself.



**Part 1 – Public**

12. For clarity, any reference to the Bar Council has been changed to the General Council of the Bar (or GCB for short), and a definition included. This reflects the GCB as the legal entity and we then refer to the BSB as the autonomous, statutory regulatory body where appropriate. In addition, out of date references have also been corrected (e.g. the Governance Code on Public Appointments).
13. The Treasurer will no longer chair the Finance Committee and the Vice Chair of the BSB will no longer be Vice Chair of the Finance Committee. Those ex officio appointments will be replaced by an independent lay Chair (who has the casting vote in the case of a tie) and an independent lay Vice Chair. Both should be deemed independent on appointment. There remains the provision for the Treasurer and Vice Chair of the BSB to remain on the Finance Committee as representatives of the Bar Council and BSB respectively.
14. It is necessary that there be parity of membership on the joint Committees. Therefore the Finance Committee will comprise the independent lay Chair and Vice Chair and two nominees each from the Bar Council and the BSB. The CEO of the Bar Council and the Director General of the BSB will be non-voting members.
15. The membership of the Audit Committee did not require such significant change, consisting of four members jointly nominated by the Chair of the GCB and the Chair of the BSB and one separate nominee each.
16. The Emoluments Committee will be disbanded. Responsibility for setting the standard increase to be applied in the annual performance review process has been given to the Finance Committee. It is envisaged that both parts of the entity will separately consider performance related pay increases for their staff (to comply with Rule 10) but there may be a need for the Finance Committee to set parameters for the baseline increase in any given year (ie on the basis of income forecasts). For clarity, there will be no staff pay increases in this financial year, as one of our cost-saving measures in response to the Covid-19 crisis.
17. The section on the provision of resources to the BSB has been revised to clarify that it is for the BSB to independently formulate its budget and determine the allocation of its resources. We also set out the three tests that must be met for the GCB and BSB to agree to share services.
18. A high level resolution process replaces that which set out the previous process for disputes on the resources provided to the BSB. The IGRs require us to agree and publish a separate dispute resolution process for disputes on any points arising under or in connection with the Rules. We are therefore working on a more detailed process which will provide detail and procedures to underpin the process set out in these Standing Orders.
19. The previous Budget Review Groups have also been disestablished (although these were rarely, if ever, convened). This is because there is no longer scope for any disagreement in relation to the budget put forward by the BSB.

**Proposed amendments to the BSB Constitution**

20. We propose correcting the error in numbering in paragraph D of the Preamble to the BSB's Constitution – it refers to the authority to make the Constitution coming from 1(f) of the Bar Council Constitution when that should be 1(d).

## Part 1 – Public

21. We propose amending the processes for reappointment of Board members (including the Chair) so that it is wholly within the Board's gift. As currently drafted, the Panel to consider reappointment of the Chair includes a member of the judiciary nominated by the Lord Chief Justice and a lay, independent member (as well as two Board members). The Panel to consider reappointment of Board members includes a lay, independent member as well as the Chair of the Board and two other Board members.
22. To achieve this, we propose amendment of the relevant paragraphs of Schedule A as set out below with track changes.
- A15. ~~A Panel as constituted in A2~~ The Board may renew the appointment of the Chair for a further fixed period of up to four years without holding a competition, if the ~~Panel Board~~ is satisfied that conditions (1) and (2) are met. The Chair of the BSB may not take part in any discussion or decision of the Board relating to reappointment, and the Vice Chair of the BSB shall normally chair the discussion:
- (1) the person has performed to the standard to be expected of the office held, and
  - (2) it is in the interests of the BSB to renew the appointment.
- A16. The appointments of other members of the Board may be renewed ~~by a Panel as constituted in A3~~ on the recommendation of the Chair of the BSB, who will have consulted the Vice Chair and Director General as to whether conditions A15 (1) and (2) are met in respect of the Board member. Appointments may be renewed for a further fixed period of up to four years.
23. For clarity, we have confirmed to the Chair of the Board our interpretation of A16 that appointments may be renewed more than once, where members have not yet served eight years as an ordinary member of the BSB. That is now the maximum permissible and those members who were appointed to first and second terms of three years can only achieve that if a second reappointment is allowed.

**Annexes**

24. Annex 1 - proposed amendments to Standing Orders for Joint Committee of the General Council of the Bar of England and Wales and the Bar Standards Board.

**Lead responsibility**

Rebecca Forbes  
Head of Governance and Corporate Services

Joseph Bailey  
Policy Manager

Mark Neale  
Director General

Annex 1 to BSB Paper 020 (20)  
Part 1 - Public



The Bar Council



Standing Orders for joint Committees of the ~~General Council of the Bar~~ ~~Bar Council of England and Wales~~ and the Bar Standards Board

Foreword

The following Standing Orders are issued under the Authority of Regulations 13 and 14 of Part II the ~~Bar Council~~ Constitution of the General Council of the Bar.

This ~~fifth~~<sup>fourth</sup> edition of the Standing Orders came into effect on ~~XX XX21~~<sup>April 2020</sup>~~18~~.

Introduction

Preamble

1. The ~~General Council of the Bar (GCB)~~ ~~Bar Council~~ is an approved regulator for the purposes of the Legal Services Act 2007. The functions and powers of the ~~Bar Council~~<sup>GCB</sup> are set out in its constitution.
2. The GCB has established the Bar Standards Board (“the BSB”) to exercise the regulatory functions of the GCB. The functions and powers of the BSB are set out in its constitution.
- ~~3. The Bar Council and the BSB wish to have in place arrangements which observe and respect the principle of regulatory independence (as defined in rule 1 of the Internal Governance Rules 2009), i.e. the principle that structures or persons with representative functions must not exert, or be permitted to exert, undue influence or control over the performance of regulatory functions, or any person(s) discharging those functions.~~
- ~~3.~~ The GCB has delegated the discharge of its regulatory functions to the BSB in compliance with section 28 of the Legal Services Act 2007. This is in accordance with the overarching duty set out by Rule 1 of the Internal Governance Rules 2019, under which the GCB is required to have in place arrangements which ensure that the exercise of its regulatory functions is not prejudiced by its representative functions. In particular, the GCB must have arrangements in place to separate its regulatory functions from its representative functions and to maintain the independence of its regulatory functions as effectively as is reasonably practicable and consistent with section 28 of the Legal Services Act ~~2007~~.

**Commented [NZ2]:** NB: From here on in, all references to the Bar Council have been amended to GCB. A definition can be found in the definitions section. This is used to describe the legal entity as a whole.

**Commented [NZ3]:** This change sets out the requirements under the new IGR and uses wording from it.

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4. These Standing Orders are held jointly by the GCB and the BSB and set out the powers and functions of committees ~~and groups~~ where there is representation by both parties. The powers and functions of the GCB in its representative capacity are set out in the GCB's Standing Orders. The powers and functions of regulatory committees and groups are set out in the BSB's Standing Orders.

**Commented [NZ4]:** There are no such 'groups'

**Definitions**

5. In these Standing Orders, unless the context requires otherwise:

"Approved regulator" has the meaning given in section 20(2) of the Legal Services Act 2007.

~~"The Bar Council" means the Council of the General Council of the Bar of England and Wales.~~

**Commented [NZ5]:** This is now GCB for clarification, see below

"The Bar Standards Board" and "BSB" means the ~~Board established by the Bar Council~~ part of the General Council of the Bar of England and Wales established in accordance with Section 28 of the Legal Services Act 2007 to independently to exercise and oversee the regulatory functions of the ~~GCB~~.

**Commented [NZ6]:** This now reflect the BSB's status as a statutory body

~~"Bar Representation Fee" means the voluntary fee payable to support representational activity by the Bar Council.~~

**Commented [NZ7]:** The BSB and joint committees have no activities to do with the BRF so this reference has been removed. It is not referred to elsewhere in tis document.

"The Chair of the GCB", and "Vice-Chair of the GCB", shall mean the Chair and Vice-Chair respectively of the GCB elected pursuant to the provisions of the GCB's Constitution.

"The Chair of the BSB" and "Vice-Chair of the BSB" shall mean those persons ~~for the time being~~ appointed to those ~~seat~~ positions pursuant to the provisions of the Constitution of the Bar Standards Board.

"The Chief Executive" shall mean the person for the time being appointed to such position pursuant to the provision of Regulation 18 of the Constitution of the General Council of the Bar.

"The Director General of the BSB" shall mean the ~~member of the Bar Council's staff for the time being appointed to that position~~ person for the time being appointed to such position pursuant to the provision of Paragraph 14(a) of the Constitution of the Bar Standards Board.

"The Director of Finance" means the member of the ~~GCB's~~ staff with day-to-day responsibility for financial matters.

~~"The Director of Human Resources" means the member of the Bar Council's staff with day to day responsibility for matters pertaining to human resources.~~

**Commented [NZ8]:** Removed as there is no longer a reference to the HR Director in this document.

The "General Council of the Bar" and "GCB" means the General Council of the Bar of England and Wales and refers to the legal entity in entirety.

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"The General Management Committee" ("GMC") shall mean the standing committee of the GCB described in Regulation 13(b) of the GCB's Constitution.

"Internal Governance Rules" means the Internal Governance Rules made by the Legal Services Board.

"Lay person" has the meaning given in paragraph 2(4) of Schedule 1 to the Legal Services Act 2007 and "lay member" has a corresponding meaning.

"Member of the BSB" means a person, whether practising barrister or otherwise, who for the time being holds a seat on the Board of the Bar Standards Board.

"Practising barrister" means a barrister holding a current practising certificate issued in accordance with the Practising Certificate Rules of the Bar Standards Board Handbook ~~by the GCB.~~

Commented [NZ9]: Amended to reflect the actual practice.

"Practising Certificate Fee" means the amount payable for a practising certificate each year.

"Regulatory functions" has the meaning given in section 27(1) of the Legal Services Act 2007, and the BSB is responsible for determining any question whether a matter involves the exercise of a regulatory function.

"Representative functions" has the meaning given in section 27(1) of the Legal Services Act 2007.

"Resources Group" means the shared services section of the organisation, supporting the GCB and the Bar Standards Board.

"The Seven Principles of Public Life" means the Seven Principles of Public Life as laid down in the First Report of the Committee on Standards in Public Life and amended by the Committee following its review in January 2013.

"The Treasurer" shall mean the Treasurer of the GCB elected pursuant to the provisions of the GCB Constitution.

Any terms used in the Legal Services Act 2007 have the same meaning as in that Act.

The masculine shall include the feminine gender.

The plural shall include the singular and vice versa.

## Finance and Resources

### General

6. The purpose of these Standing Orders is to set out the arrangements:
  - a. For ensuring that the GCB's and BSB's finances and other resources are properly managed and accounted for; and

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b. For ensuring that the GCB complies with its obligations under rule ~~97(d)~~ of the Internal Governance Rules 2019, made by the Legal Services Board under Section 30 of the Legal Services Act, to provide such resources to the BSB as are reasonably required for its regulatory functions to be efficiently and effectively discharged. It is for the BSB to determine what resources are sufficient for the efficient and effective discharge of regulatory functions, providing information to the GCB as required by rule 3 of the Internal Governance Rules 2019, take such steps as are reasonably practicable to ensure that it provides such resources as are reasonably required for or in connection with the exercise of its regulatory functions.

7. The Treasurer ~~and Chief Executive on behalf of the GMC, BSB and the Finance and the Audit Committees~~ will keep the GCB briefed on all matters of financial importance, ~~and on behalf of the Finance and the Audit Committees will keep the BSB briefed on all matters of financial importance.~~

**Commented [NZ10]:** No need to spell this out as all are under the GCB

8. The Chief Executive is the accounting officer and responsible for financial planning, the production of accounts, and, day-to-day financial management in respect of the GCB, and the collection of practising certificate fees, and the Bar Representation Fee. The Director General is responsible for financial planning and day-to-day financial management in respect of the BSB.

**Commented [NZ11]:** Rephrased to articulate the new arrangements under the IGR.

#### Finance Committee

9. The terms of reference of the Finance Committee are:

- a. To ~~determine and~~ keep under review the GCB's ~~accounting policies and procedures including the Finance Manual which sets out the procedures~~ for preparing the annual budget, levels and procedures for the authorisation of expenditure, procurement policy and other financial controls;
- b. To review and finalise the annual revenue and capital expenditure budgets, in consultation with the BSB and GMC as appropriate, for presentation to the ~~Bar Council~~GCB (in accordance with Rule 10 of the Internal Governance Rules 2019, the GCB cannot approve or reject the budget from ~~the BSB~~);
- c. To put forward proposals for the annual practising certificate fee to the GCB, following review, also in consultation with the BSB and GMC, in accordance with as appropriate, and put forward proposals to the GCB for the practising certificate fees and Bar Representation Fee (including levels, bandings, discounts, surcharges, payment methods, exemption waivers and refunds) which are consistent with Section 51 of the Legal Services Act 2007 and the Practising Fee Rules 2009 made by the Legal Services Board. Proposals must take into account the BSB's independent formulation of its own budget, aligned to its priorities and strategy, under Rule 10 of the Internal Governance Rules 2019. In setting the PCF the GCB will comply with the LSB rules, and:

**Commented [NZ12]:** We would not expect the Finance Committee to 'determine' policy and procedures which will be drafted by the Finance Team and agreed at Senior Management level. Also, the reference to the finance manual is out of date as this no longer exists in a 'manual' format.

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~~to conduct such consultation in relation thereto as may be required pursuant to the Practising Certificate Rules 2009; and~~

~~to apply to the Legal Services Board for approval of the practising certificate fee determined by the Bar Council;~~

- d. To review the GCB's ~~and BSB's~~ management accounts and the associate reports provided by the Chief Executive and the BSB Director General and make recommendations, take such actions or seek assurances ~~(in accordance with Rule 3 of the Internal Governance Rule 2019 or otherwise)~~ as may be necessary or desirable in the interests of the GCB as a whole in the light of such accounts;

~~To review the quarterly and annual reports made by the BSB to the Bar Council (in its capacity as Approved Regulator);~~

- e. To review ~~quarterly~~ the GCB's cash flow forecast;
- f. To review the GCB's annual accounts prior to their consideration by the Audit Committee ~~and approval by the GCB;~~
- g. To determine and keep under review the GCB's banking arrangements, ~~so as to ensure that they reflect current need, value for money and balance of risk including the banking policy;~~
- h. To keep under review the level and nature of the GCB's investments and borrowings and take all such action in relation thereto as is necessary or desirable in the interests of the GCB;
- i. To provide advice on any financial matters referred to it by the GCB, the BSB or the GMC;

~~To consider the reports and decide upon the recommendations of the Emoluments Committee; and~~

- j. ~~To advise on the standard increase to be applied in the annual performance related salary review, having regard to the recommendations of the GCB and BSB; and~~

- k. ~~A sub-panel consisting of members referred to in paragraphs 10 (c) and (d) below shall be responsible for setting the remuneration for independent members of the joint Audit and Finance Committees and the independent lay selection group member referred to in paragraph 32(c) below.~~

~~To review the findings of the internal and external auditors and ensure that financial issues raised in the management letter are addressed by the appropriate Bar Council staff and to ensure that issues raised by the Audit Committee are appropriately responded to;~~

**Commented [NZ13]:** We do not see that it is necessary to spell out the rules. If they changed, we would then need to change this document so we are essentially future-proofing this.

**Commented [NZ14]:** This does not happen and, to our knowledge has never happened.

**Commented [NZ15]:** This is not necessarily quarterly.

**Commented [NZ16]:** This change was suggested by the Finance Committee

**Commented [NZ17]:** Under the new IGRs the BSB can formulate its own budget. It is proposed that the Emoluments Committee is discontinued. The BSB will be using PRP and GRA to determine pay for its 'members' whereas the GCB will be putting in a first instance sub-group to determine matters about its 'members'.

**Commented [NZ18]:** We believe this is a task for the Audit Committee rather than the finance committee. Therefore, this has been moved to the Audit Committee's ToRs.

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10. The membership of the Finance Committee shall be:

- a. A Chair who is an independent lay person with relevant financial knowledge and experience nominated jointly by the Chair of the GCB and the Chair of the BSB acting in accordance with the Seven Principles of Public Life and taking account of best practice for public appointments, including, in particular, the Governance Code on Public Appointments, who shall be deemed independent of both the GCB and BSB on appointment and who shall be appointed for a term of three years, renewable once. In the case of a tie in any matter put to a Finance Committee vote, the Finance Committee Chair shall have the casting vote.~~The Treasurer of the Bar Council [Chair];~~
- b. A Vice-Chair who is an independent lay person with relevant financial knowledge and experience nominated jointly by the Chair of the GCB and the Chair of the BSB acting in accordance with the Seven Principles of Public Life and taking account of best practice for public appointments, including, in particular, the Governance Code on Public Appointments, who shall be deemed independent of both the GCB and BSB on appointment, and who shall be appointed for a term of three years, renewable once.~~The Vice-Chair of the BSB [Vice-Chair];~~
- ~~c. The Chair and Vice-Chair of the GCB and the Chair of the BSB;~~
- ~~d.c.~~ Two practising barristers nominated by the Chair of the GCB, who shall be appointed for a term of three years, renewable once (see paragraph 45), one of whom who should normally be the Treasurer;
- ~~e.d.~~ Two members of the BSB or of a BSB committee nominated by the Chair of the BSB, who shall be appointed for a term of three years, renewable once (see paragraph 44);
- ~~f. Two independent lay persons nominated jointly (in consultation with the Treasurer of the Bar Council) by the Chair of the Bar Council and the Chair of the BSB acting in accordance with the Seven Principles of Public Life and taking account of best practice for public appointments, including in particular the Commissioner for Public Appointments' Code of Practice for Ministerial Appointments to Public Bodies, who shall be appointed for a term of three years, renewable once;~~
- ~~g.e.~~ The Chief Executive (non-voting member);
- ~~h.f.~~ The Director General of the BSB (non-voting member);

In attendance: ~~the Director General of the BSB, other senior staff as necessary, and the Director of Finance (who shall act as secretary to the Finance Committee).~~

11. Each of the members of the Finance Committee other than the Chair and Vice-Chair of the Committee~~lay persons identified in paragraph 10(f) above and~~, the Chief Executive and the Director General may nominate an alternate who is entitled to take their place at any meeting which the member is unable to attend.

**Commented [NZ19]:** NB: The composition of the committee has been revised to ensure parity between GCB and BSB representatives.

**Commented [NZ20]:** Under the new IGR it is not possible for the GCB Treasurer to remain Chair as it would be a dual role function.

**Commented [NZ21]:** No longer members of the Committee though they could be appointed to the positions in paragraphs 10(c) and 10(d) if necessary.

**Commented [NZ22]:** The CEO of the Bar Council and the DG of the BSB are to be non-voting members as they are held to account by the Finance Committee).



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12. The quorum for meetings of the Finance Committee shall be 35 members (or alternates), which must include:
- a member (or the alternate of a member) who is either one of the Officers of the Bar GCB or one of the two practising barrister members nominated by the Chair of the GCB members identified in paragraph 10(cd) above;
  - a member (or the alternate of a member) who is either the Chair or the Vice-Chair of the BSB or one of the members nominated by the Chair of the BSB identified in paragraph 10(de) above; and
  - the Chair or Vice-Chair of the Finance Committee, an independent lay member.

**Commented [NZ23]:** The quorum has been reduced to 3 from 5 to reflect the decrease in committee members. At all times there must be a lay member, BSB member and GCB member present.

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**Audit Committee**

13. The terms of reference of the Audit Committee are:

Governance and Risk Management

- To advise the GCB in relation to the GCB's role as an approved regulator for the purposes of the Legal Services Act 2007 on all corporate governance matters and to review the effectiveness of all internal controls, including financial management arrangements and internal business processes and in so doing to make appropriate use for this purpose of:
  - internal audits;
  - external audits; and
  - reports and assurances from the GCB and the BSB representative, regulatory and Resources Group functions.
- To review the GCB's and the BSB's risk management arrangements strategies of the representative, regulatory and Resources Group functions, including processes for assessing, reporting, owning and managing business risks to the corporate entity and their reputational and financial implications across all parts of the GCB, and to make recommendations and seek assurances or clarification as may be necessary or desirable in the interests of the GCB as a whole;
- To receive risks registers at each meeting on a quarterly basis from the BSB and the GCB and seek assurances that effective control systems are in place and are being adhered to from the Director of Finance, Chief Executive of the GCB and the Director General of the BSB;
- To review and make arrangements on whistleblowing processes and the arrangements for investigating fraud, corruption and error;
- To keep under review the level and nature of the GCB's insurance cover;
- To keep under review the GCB's accounting policies; and

**Commented [NZ24]:** We have rephrased this to make it clearer

**Commented [NZ25]:** We believe that the listing the three parts of the GCB separately provides clarity as this is what happens in practice when the Audit Committee reviews the risk registers.

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~~e.g.~~ To review the findings of the internal and external auditors, if appropriate, and ensure that issues raised in the management letter are addressed by the appropriate GCB staff, and to ensure that issues raised by the Audit Committee are appropriately responded to.

**Commented [NZ26]:** As explained above, this has been moved from the Finance Committee ToRs.

Internal Audit

~~f.h.~~ To receive assurances from the 'first instance' GCB and BSB panels/committees that the processes in place for internal audit ~~are determine and keep under review the need for, and the arrangements for the provision of, internal audits, having regard to the need for the internal audit function to be effective and that any actions raised are addressed, to be adequately resourced, to have appropriate standing within the GCB and the BSB and to be aligned with corporate risk registers;~~

~~g.~~ To consider any internal audit reports, and any management responses thereto, and make recommendations or take such actions as may be necessary or desirable in the interests of the GCB in the light thereof;

External Audit

~~h.i.~~ To make recommendations to the GCB on the appointment and removal of the external auditors, ~~ensuring that:~~

~~h.j.~~ To oversee the relationship with the external auditors, including:

- i. there is a retender for an external audit firm at least every five years;
- ii. that no audit firm is, normally, appointed as an external auditor for longer than 10 years (any extension will require the full approval of the Audit Committee); and
- iii. ensuring that the external auditors are informed of any significant developments or risks which might impact upon the audit process or fee;
- iv. that the Audit Committee should approve any the external auditor firm is prohibited from offering non-audit services to the GCB group in the same year.

~~j.k.~~ To monitor and review the external auditor's independence, objectivity and effectiveness;

~~k.l.~~ To review the findings of the external auditor and ensure that appropriate actions are being taken;

~~l.m.~~ To determine and keep under review policy on the engagement of the external auditor to supply non-audit or consultancy services;

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~~m.n.~~ To ~~oversee the production, and monitor~~scrutinise the integrity, of the GCB's Annual Report and Accounts and, subject to audit, to ~~approve-recommend~~ them for ~~submission-approval by to~~ the GCB; and

**Commented [NZ27]:** The current SOs read as if the Audit Committee approves the accounts. This has been re-phrased to make the role of the GCB clear.

Statutory Compliance

~~n.o.~~ To review and make recommendations on the processes in place to ensure that the GCB meets its statutory obligations, including those with regard to employment, data protection and health and safety.

14. The membership of the Audit Committee shall be:

- a. A Chair who is an independent lay person with relevant audit knowledge and experience nominated ~~jointly (in consultation with the Chair of the Audit Committee)~~ by the Chair of the GCB and the Chair of the BSB acting in accordance with the Seven Principles of Public Life and taking account of best practice for public appointments, including ~~in particular the Commissioner for Governance Code on Public Appointments; Code of Practice for Ministerial Appointments to Public Bodies~~ In the case of a tie in any matter put to an Audit Committee vote, the Audit Committee Chair shall have the casting vote;
- b. A Vice-Chair (who is preferably, but need not be, a practising barrister) with relevant audit knowledge and experience nominated jointly (in consultation with the Chair of the Audit Committee) by the Chair of the GCB and the Chair of the BSB, and who shall be deemed independent of both the GCB and BSB on appointment, who shall be appointed for a term of three years, renewable once;
- c. A ~~practising barrister member~~ nominated by the Chair of the GCB, who shall be appointed for a term of three years, renewable once (~~see paragraph 45~~);
- d. A member nominated by the Chair of the BSB, who shall be appointed for a term of three years, renewable once (~~see paragraph 44~~); and
- e. Two members (who may, but need not, be practising barristers) nominated jointly (in consultation with the Chair of the Audit Committee) by the Chair of the GCB and the Chair of the BSB acting in accordance with the Seven Principles of Public Life and taking account of best practice for public appointments, including ~~in particular the Commissioner for Governance Code on Public Appointments; Code of Practice for Ministerial Appointments to Public Bodies,~~ who shall be deemed independent of both the GCB and the BSB on appointment and who shall be appointed for a term of three years, renewable once.

**Commented [NZ28]:** This was simply a mistake – the Chair would not consult on their own position or successor

**Commented [NZ29]:** It is not believed that the VC has to be a barrister as there is already a barrister member (see C below).

In attendance: the Chief Executive, the Director General of the BSB, other senior staff as necessary ~~and the Director of Finance (who shall act as secretary to the Audit Committee).~~

15. No person who is a member of the Finance Committee may also be (or act as an alternate for) a member of the Audit Committee.

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16. The members of the Audit Committee identified in paragraph 14(c) and (d) above may nominate an alternate who is entitled to take their place at any meeting which the member is unable to attend, providing that alternate is not also a member of the Finance Committee.
17. The quorum for meetings of the Audit Committee shall be 3 members (or alternates).

**Emoluments Committee**

~~18. The Emoluments Committee is a sub-committee of the Finance Committee.~~

~~19. The terms of reference of the Emoluments Committee are:~~

- ~~a. To set parameters for, determine, and report to the Finance Committee on, the remuneration and terms of engagement of the following:
  - ~~i. The Chief Executive~~
  - ~~ii. The Director General of the BSB~~
  - ~~iii. Any other senior staff who sit outside the general staff banding structure~~
  - ~~iv. The members of the BSB~~
  - ~~v. All remunerated lay members of any Bar Council or BSB committee, sub-committee, panel, working party or other body~~~~
- ~~b. To advise the Chair of the Bar Council on the recruitment of the Chief Executive and to advise the Chair of the BSB on the recruitment of the Director General of the BSB;~~
- ~~c. To advise on the annual pay review to staff;~~
- ~~d. To consider appeals by the Chief Executive, the Director General of the BSB and staff who report directly to the Chief Executive or Director General against decisions relating to dismissal, disciplinary sanction, grievance, promotion or demotion. Appeals will be heard by one of the lay members of the committee.~~
- ~~e. To provide general oversight and expert advice on HR matters.~~

~~20. The membership of the Emoluments Committee shall be:~~

- ~~a. The Treasurer of the Bar Council (Chair);~~
- ~~b. The Chair of the Bar Council;~~
- ~~c. The Chair of the BSB (or, in respect of matters which the Chair of the BSB is not entitled to discuss, the Vice Chair of the BSB);~~
- ~~d. Two independent lay persons, who may also be members of the Finance Committee, each of whom:~~

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- ~~i. shall be nominated jointly (in consultation with the Treasurer of the Bar Council) by the Chair of the Bar Council and the Chair of the BSB acting in accordance with the Seven Principles of Public Life and taking account of best practice for public appointments, including in particular the Commissioner for Public Appointments' Code of Practice for Ministerial Appointments to Public Bodies; and~~
- ~~ii. shall be appointed for a term of three years, renewable once, having regard to their familiarity with current human resources practice and remuneration arrangements for senior appointments in the public and private sectors.~~

~~In attendance: the Chief Executive, the Director General of the BSB, other senior staff as necessary, and the Director of HR (who shall act as secretary to the Emoluments Committee).~~

- ~~21. Each of the members of the Emoluments Committee other than the lay persons identified in paragraph 20(d) above may nominate an alternate who is entitled to take their place at any meeting which the member is unable to attend.~~
- ~~22. The quorum for meetings of the Emoluments Committee shall be 3 members (or alternates), which must include:
  - ~~a. the Treasurer or Chair of the Bar Council (or their alternate); and~~
  - ~~b. the Chair or the Vice Chair of the BSB (or their alternate).~~~~
- ~~23. No member of the Emoluments Committee shall take part in the discussion of a matter in which he or she has a personal interest.~~
- ~~24. A sub-group of the Emoluments Committee consisting of the HR Director, the Chief Executive, the Treasurer and lay members of the Emoluments Committee will be responsible for setting the parameters for, determining, and reporting to Finance Committee on the remuneration and the terms of engagement of the following:
  - ~~i. The Chair of the Bar Council~~
  - ~~ii. The Vice Chair of the Bar Council~~
  - ~~iii. The Chair of the BSB~~
  - ~~iv. The Vice Chair of the BSB~~~~

**The provision of BSB's financial and other resources to the BSB**

- ~~25.18. The BSB's financial and other resources to be provided to the BSB in each year shall be determined by the BSB as part of its the annual budgeting process, in accordance with Rule 10 of the Internal Governance Rules 2019.~~
- ~~26.19. The BSB's financial and other resources provided to the BSB shall include, as provided for in the BSB's annual budget:
  - ~~a. Funds to be spent for the BSB's purposes identified in the BSB's annual budget;~~~~

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- b. The full-time services of the Director General of the BSB and of other ~~Bar Council~~ employees managed by the Director General of the BSB;
- c. A share of shared services, only where, in accordance with Rule 11 of the Internal Governance Rules 2019, the GCB and BSB are in agreement that including:
  - i. this will not undermine, and could not reasonably be seen to undermine, the separation of regulatory and representative functions accommodation;
  - ii. this is effective and appropriate for the BSB to discharge its regulatory functions~~IT services~~; and
  - iii. this is necessary to be efficient and reasonably cost effective, the services of Bar Council employees managed by the Chief Executive.

~~27-20.~~ In relation to the BSB's financial and other resources ~~provided to the BSB:~~

- a. The GCB shall observe the requirements of Part ~~II(1)(d) One~~ of the ~~Bar Council GCB C~~ constitution (discharge of regulatory functions);
- b. The BSB shall observe the procedures and requirements contained in or made under these Standing Orders.

~~28.~~ ~~The procedures for preparing the annual budget shall be set out in the Finance Manual.~~

~~29-21.~~ In accordance with Rule 10 of the Internal Governance Rules 2019, the GCB cannot approve or reject the proposed budget from the BSB, though it may seek further information under Rule 3(2)(a) where it has reasonable grounds to do so. In accordance with Rule 3, the BSB must provide sufficient information to the GCB as is reasonably required for the GCB to be assured that the BSB's required resources are necessary and proportionate, and that the BSB has complied with Section 28 of the Legal Services Act 2007 in determining its required resources. The Finance Committee and the BSB shall use their best endeavours to reach agreement as to those items in the annual budget concerning the resources to be provided to the BSB.

~~If in any year the Finance Committee and the BSB are unable to reach agreement on any such item or items, then a Budget Review Group shall be formed to resolve any such differences and the Finance Committee shall, in preparing the annual budget, give effect to the conclusions of that Budget Review Group.~~

### Resolution Process

~~30-22.~~ Any other issues concerning matters within the remit of the Finance Committee or Audit Committee and/or any point arising under or in connection with the Internal Governance Rules 2019 the resources provided to the BSB:

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- a. shall if possible be resolved by agreement between the Director General of the BSB and the ~~Director of Finance~~ Chief Executive;
- b. if so not so resolved, shall be referred ~~to and resolved by the Chief Executive~~ by the Director General of the BSB or the Chief Executive to the Legal Services Board for resolution, in accordance with Rule 14 of the Internal Governance Rules 2019;
- c. if not so resolved, ~~shall be referred by the Chief Executive to and resolved by the Finance Committee~~ the BSB and the GCB shall agree to be bound by the opinion of an independent arbitrator.

**Budget Review Groups**

~~31. The membership of any Budget Review Group shall be~~

- ~~a. The Treasurer of the Bar Council (Chair);~~
- ~~b. The two independent lay members of the Finance Committee;~~
- ~~c. One member of the Finance Committee nominated by the Chair of the Bar Council;~~
- ~~d. One member of the Finance Committee nominated by the Chair of the BSB.~~

~~All members shall be present to achieve quorum.~~

~~32. Meetings of a Budget Review Group shall be attended by:~~

- ~~a. The Chief Executive;~~
- ~~b. Relevant senior staff;~~
- ~~c. Director of Finance;~~
- ~~d. Such other person(s) as the Budget Review Group may invite.~~

~~33. The terms of reference of any Budget Review Group shall be to resolve any difference in relation to those items in the annual budget concerning the resources to be provided to the BSB which arises in the preparation of the budget and which cannot be resolved by agreement between the Finance Committee and the BSB.~~

~~34. Any Budget Review Group shall consult with the BSB and shall have regard, inter alia, to:~~

- ~~a. The requirements of Part One of the Bar Council constitution (discharge of regulatory functions);~~

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- ~~b. The Bar Council's obligation under rule 7(d) of the Internal Governance Rules 2009 to take such steps as are reasonably practicable to ensure that it provides such resources as are reasonably required for or in connection with the exercise of its regulatory functions;~~
- ~~e. In respect of any disputed item proposed for inclusion in the annual budget:~~
- ~~i. The BSB's objectives (the determination of which is a matter for the BSB);~~
  - ~~ii. Whether the proposed budget item is appropriate to achieve the BSB's objectives;~~
  - ~~iii. Any options for achieving those objectives more economically or efficiently;~~
  - ~~iv. Any measures which have been, or could be, taken to reduce the cost of the proposed item;~~
  - ~~v. Any offsets available against the cost of the proposed item;~~
  - ~~vi. Any cost/benefit analysis or assessment of priorities conducted by the BSB;~~
  - ~~vii. The financial burden on the profession both individually and collectively which would result from providing the resources required by the proposed item.~~

**The Chairs's Committee**

**Commented [NZ30]:** The apostrophe was in the wrong place. This has now been resolved for all other instances.

~~35-23.~~ The terms of reference of the Chairs' Committee shall be to keep under review all aspects of the relationship between the Bar Council and the BSB.

~~36-24.~~ The Chairs' Committee shall consist of:

- a. The Chair of the GCB;
- b. The Chair of the BSB;
- c. The Vice-Chair of the GCB;
- d. The Vice-Chair of the BSB;
- e. The Treasurer of the GCB;
- f. The Chief Executive;
- g. The Director General of the BSB.

~~37-25.~~ Meetings of the Chairs' Committee shall be attended by:

- a. Relevant senior staff;
- b. Such other person(s) as the Chairs' Committee may invite.



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~~38-26.~~ In the interests of the preservation of independence, meetings of the Chairs' Committee shall be chaired alternately by the Chair of the GCB (or deputy) and the Chair of the BSB (or deputy). Meetings shall be administrated by the Chief Executive's Office.

~~39-27. There shall be a minimum of two meetings of the Chairs' Committee per year. The quorum for meetings of the Chairs Committee shall be 4 members which must include the Chair or Vice Chair of the Bar Council and the Chair or Vice Chair of the Bar Standards Board.~~

### Appointments process for joint Bar Council and BSB Committees

~~40-28.~~ Non ex-officio members of the joint Finance ~~and~~, Audit ~~and Emoluments~~ Committees are appointed and reappointed on the principles of fairness, transparency and merit.

~~41. The Chair's Committee is comprised entirely of ex-officio posts and therefore there is no appointments or reappointments process for this Committee.~~

~~42-29.~~ Those members for whom the appointments process applies are:

#### Finance Committee

- ~~The Chair;~~
- ~~The Vice-Chair;~~
- Two practising barristers nominated by the Chair of the Bar Council;
- Two members of the BSB or of a BSB committee nominated by the Chair of the BSB;
- ~~Two independent lay persons nominated jointly (in consultation with the Treasurer of the Bar Council) by the Chair of the Bar Council and the Chair of the BSB.~~

#### Audit Committee

- ~~A Chair who is an independent lay person with relevant audit knowledge and experience nominated jointly (in consultation with the Treasurer of the Bar Council) by the Chair of the GCB and the Chair of the BSB;~~ The Chair;
- ~~A Vice-Chair who is a practising barrister with relevant audit knowledge and experience nominated jointly (in consultation with the Chair of the Audit Committee) by the Chair of the Bar Council and the Chair of the BSB;~~ The Vice-Chair;
- The A member nominated by the Chair of the GCB;
- The A member nominated by the Chair of the BSB; and
- The two members ~~(who may, but need not, be practising barristers)~~ nominated jointly (in consultation with the Chair of the Audit Committee) by the Chair of the GCB and the Chair of the BSB.

#### ~~Emoluments Committee~~

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- ~~Two independent lay persons, who may also be members of the Finance Committee, nominated jointly (in consultation with the Treasurer of the Bar Council) by the Chair of the Bar Council and the Chair of the BSB.~~

~~43.30.~~ Appointments of BSB members to the posts of Finance or Audit Committee members are made by the BSB Chair in consultation with the BSB Vice-Chair and BSB Director General.

~~44.31.~~ Appointments of Bar Council members to the posts of practising barrister members of the Finance Committee or member of the Audit Committee are made by the Chair of the GCB in consultation with the Vice-Chair and Chief Executive of the GCB.

~~45.32.~~ The posts of Chair of the Finance Committee and the Chair of the Audit Committee, ~~and those of lay members of the Finance and Emoluments Committees~~, are advertised to the public. Members are selected on merit by a Selection Group comprising:

- The Chair or Vice-Chair of the GCB;
- The Chair or Vice-Chair of the BSB; and
- ~~The Treasurer of the Bar Council~~ A lay person independent of the GCB and the BSB, with knowledge of the Governance Code on Public Appointments, or similar skills and experience in best practice in recruitment to public office. The member shall be appointed by the Chair of the GCB and the Chair of the BSB and shall usually be the Chair of the Selection Group.

~~33.~~ The post of Vice-Chair of the Finance Committee is advertised to the public. Members are selected on merit by a Selection Group comprising:

- The Chair or Vice-Chair of the GCB;
- The Chair of Vice-Chair of the BSB; and
- The Chair of the Finance Committee.

~~46.34.~~ The post of Vice-Chair of the Audit Committee, and those of other lay members of the Audit Committee, are advertised to the public. Members are selected on merit by a Selection Group comprising:

- The Chair or Vice-Chair of the GCB;
- The Chair or Vice-Chair of the BSB; and
- The Chair of the Audit Committee.

~~47.35.~~ The members of the selection groups identified in paragraphs ~~3346~~ and ~~3447~~ may nominate an alternate who is entitled to take their place on a selection group. However, alternates must be consistent throughout the whole appointment process and may not be employed part-way through.

~~48.36.~~ In the unexpected absence of a member of the selection group, after the selection group has convened, remaining members of the selection group may decide whether the interviews should go ahead without that member.

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### Part 1 - Public

~~49.37.~~ It is important that appointees to any of the joint committees uphold the standards of the “Seven Principles of Public Life” (also known as the “Nolan Principles”) set out in the Committee on Standards in Public Life’s thirteenth report “Standards Matter” and referred to in paragraph 5 of the Standing Orders for joint Committees of the ~~Bar Council~~ General Council of the Bar of England and Wales and the Bar Standards Board.

~~50.38.~~ ~~Throughout~~ the appointments and reappointments process will be conducted in accordance with the Equality Act 2010 throughout. ~~careful consideration should be given to equality and diversity.~~

~~51.39.~~ As a general rule, all appointments made to non ex-officio posts shall be for a fixed period of up to three years, renewable once, provided that the Chair of the Committee (or Chair of the GCB and Chair of the BSB in the case of the Chair of the Finance Committee and Chair of the Audit Committee posts) is satisfied that the person has performed to the required standard and it is in the interest of both parties to renew the appointment.

~~52.40.~~ In exceptional circumstances, it may be appropriate to resolve to offer an extension of an individual person’s or group of persons’ appointment beyond the maximum six year period of appointment permitted above. Any resolution to make a limited offer of extension must:

- a. allow for an extension of no more than 18 months in duration,
- b. be made by offer in writing, and
- c. be made for a specific reason that is articulated in the offer of extension

### Governance and amendments to the Standing Orders

~~53.41.~~ Any amendments to these Standing Orders must be made in ~~line with the principles of the joint protocol on ensuring regulatory independence~~ accordance with the Internal Governance Rules 2019.

~~54.42.~~ Any party wishing to amend or update any part of the Standing Orders must seek the authority of both the Bar Standards Board and the GCB to do so, via appropriate internal governance processes. The administrative management of any amendments to the text must be affected through the office of the Chief Executive of the GCB.

~~55.43.~~ A review of the Standing Orders will be scheduled on an annual basis at a meeting of the GCB ~~and~~ Bar Standards Board and ~~Resources Group~~ senior leadership team (SLT) (which includes Resources Group Directors), in accordance with Rule 1(3) of the Internal Governance Rules 2019, to assess whether any amendments may be required by any party.

Annex A

**Seven Principles of Public Life<sup>1</sup>**

1. **Selflessness**  
Holders of public office should act solely in terms of the public interest.
2. **Integrity**  
Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
3. **Objectivity**  
Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
4. **Accountability**  
Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
5. **Openness**  
Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
6. **Honesty**  
Holders of public office should be truthful.
7. **Leadership**  
Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

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<sup>1</sup> As amended by the Committee on Standards in Public Life following its review in January 2013: [Standards matter - A review of best practice in promoting good behaviour in public life](#).

<b>Meeting:</b>	Bar Standards Board	<b>Date:</b>	21 May 2020
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<b>Title:</b>	Handbook Review
<b>Author:</b>	Rupika Madhura
<b>Post:</b>	Head of Policy and Research

<b>Paper for:</b>	<b>Decision:</b> <input checked="" type="checkbox"/>	<b>Discussion</b> <input type="checkbox"/>	<b>Noting</b> <input type="checkbox"/>	Other: <input type="checkbox"/> (enter text)
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### Recommendation(s)

1. The Board is requested to approve revised scope and timescales for the review.
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### Executive Summary

2. In March 2020, the Board agreed to focus primarily on redrafting the Handbook so that it demonstrates good practice and addresses the key challenge of remaining fit for purpose, relevant and accessible.
3. The Executive recommends that the review should focus on rules of conduct for barristers, which appear in the Code of Conduct (Part 2 of the Handbook), along with any consequential amendments to the other parts of the Handbook.
4. The Executive proposes to present different approaches for packaging of the Code of Conduct section of the Handbook (with examples) to the Board for discussion in July 2020.
5. The timetable for the review assumes that final text of the revised code conduct will be approved by the Legal Services Board by December 2021 (within the Strategic Plan timescale commitments).

### Risk

6. The risk to regulation previously identified in our Corporate Risk Register is that the overall complexity of the structure and form of the Handbook may reduce its ease of use and comprehensibility and may undermine compliance due to a lack of transparency in, and understanding of, professional obligations. The approach we are suggesting means that we need to ensure we don't add complexity by focusing on the Code of Conduct. The paper explains how this risk will be managed. A single, simplified Code of Conduct is likely to be more user friendly for most of the profession.
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### Resources (Finance, IT and HR)

7. This programme of work will require resources from across the BSB. The Executive has discussed and agreed the detail of the delivery of this programme, including the associated resources needed, assurance that the draft text is subject to proper scrutiny and the governance of the review. Currently the plan is to deliver this work programme using existing allocated resources and budget.
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### Equality and Diversity

8. The equality impact assessment of the proposals at this stage of the review is underway. We will also consider undertaking an impact assessment to demonstrate proportionality in our proposals to protect consumers if necessary.
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## Handbook Review

### Background

1. In the BSB's Strategic Plan for 2019-22 (published in April 2019), the Board committed to reviewing the Handbook to ensure that it remains fit for purpose, relevant and accessible given that it has been in force in its current form for several years (since 2014). In March 2020, the Board agreed to focus primarily on redrafting the Handbook so that it demonstrates good practice and addresses this key challenge. It was agreed that any major new longer term policy issues should be considered separately, and the redrafting work progressed within the timescales of Strategic Plan 2019-2022.
2. The purpose of this paper is to seek Board approval for revised timescales and the scope of the review, and also to provide an update on how we plan to consider the other policy areas that were originally proposed to be considered as a part of the review of the Handbook.

### Scope of the Review

3. Following the Board's steer in March 2020 not to use the redrafting of the Handbook to address longer term policy issues, the Executive recommends that the review should focus on rules of conduct for barristers, which appear in the Code of Conduct (Part 2 of the Handbook), along with any consequential amendments to the other parts of the Handbook. The 'call for evidence' suggested that the key objective should be to present the current rules better rather than fundamentally reviewing what is expected of the Bar. This approach recognises that:
  - a. the core elements of conduct are what most barristers look to the Handbook for;
  - b. as such, this will have the greatest impact on all stakeholders;
  - c. there is little value in changing other parts of the Handbook at this stage when the policy issues relevant to those other parts will be considered at a later date and doing so might make the Handbook more complex;
  - d. we should consider how the various parts of the current handbook are packaged and presented to the profession and stakeholders in the future (and there may be value in moving away from having a single publication that attempts to capture everything in one place);
  - e. this will ensure that a good quality product can be produced within the desired timescale.
4. To ensure the scope of the review is clear to stakeholders, we recommend rebranding the work as a "review of the Code of Conduct". There are 6 parts of the existing handbook (for example Part 4 covers qualification rules and Part 5 covers enforcement regulations). Each part is aimed at different audiences with a specific purpose. There is no obvious advantage to keeping these parts together and a different drafting style could legitimately be taken for each of these parts. Parts 4 and 5 have both also been recently reviewed.
5. We are making good progress to understand what other regulators have done and what good practice looks like in academic literature. By the July Board meeting, we would have prepared for a discussion on different approaches for packaging of the Code of Conduct section of the Handbook (with examples of drafting). In addition to ensuring accessibility and compliance, any changes to the code of conduct may enable outcomes such as adaptability to changing circumstances, openness to innovation and flexibility of application. There remains a significant amount work to ensure our overall proposals are robust. We have therefore assumed that the Board may wish to make a final decision on scope and approach in September 2020 (this will not make a material difference to overall timescales.)

*Other Policy Issues*

6. There were 5 policy issues, which we recommended initially to be considered as part of the Handbook Review.
7. We propose to continue with two policy projects (although not as part of the review): the review of the Equality Rules, and the regulatory requirements placed on barristers in the early years of practice. These projects have already made substantial progress (including interactions with stakeholders) and are linked to work on our new Equality and Diversity Strategy and the Assuring Standards (Competence) programme respectively. These are areas where the Board has committed to make progress, but they will require sensitive stakeholder engagement over a longer timescale. They are also likely to fall outside the core Code of Conduct document.
8. The other three key policy issues (the governance of barristers' practices, the role that the BSB should play in regulating unregistered barristers and our rules on providing unreserved legal services from unregulated organisations) may be considered at a later date and we will discuss this with the Board as part of the 2021-22 business planning process, including what this may mean for changes to the other parts of the handbook.

*Stakeholder engagement*

9. Good regulatory practice requires us to engage with our external stakeholders on any regulatory interventions we propose to make. In the case of the review, this would mean that we want to engage with stakeholders on both overall approach and drafting. Our external engagement on the Handbook in 2019 suggested that we will get more meaningful engagement if engagement is focused, with draft material provided for consideration. We propose to set up a stakeholder reference group to seek input from key stakeholders on drafting. In preparation for the discussion at the July Board, we may be able to engage with some users of the Handbook to seek their views, however given Covid-19, the stakeholder reference group will likely not be ready before August 2020 and meaningful input from stakeholders before September 2020 may not be possible.
10. Our proposals to the Board in July/September 2020 for decision on our preferred way forward would therefore be subject to detailed consultation with the stakeholders at a later date. This is consistent with Board's previous steer to undertake further consultation only once we are ready with the new material but will carry a risk that stakeholders disagree with the overall approach taken. This will be partly mitigated by using the stakeholder reference group.

*Complexity of the Handbook*

11. We have previously identified a risk that the overall complexity of the structure and form of the Handbook may reduce its ease of use and comprehensibility and may undermine compliance due to a lack of transparency in, and understanding of, professional obligations. Our proposed approach to focus on the Code of Conduct might increase this risk. Given our explanation of the rationale in paragraphs 3 and 4 above, we think the probability of this happening is low.

**Timescales**

12. Following the Board's steer in March 2020, the revised timescales for the review are set out below. There are three phases: evidence gathering and options development for packaging and presentation of the Handbook, rule change and implementation.



<b>Phase 1 – evidence gathering and options development for packaging</b>	
Agree work programme details, evidence gathering on packaging of the rules, understanding of what consumer research is needed and preparation for Board Away day in July	April – June 2020
Board discussion on packaging approach with examples	July 2020 (Away Day)
Establish stakeholder reference group to assist with drafting (this will include members of the profession, practice managers, consumer and regulatory policy experts, the Independent Decision-making Body, prosecutors, the Bar Tribunal and Adjudication Service and the Central Examination Board)	August/September 2020
Board decision on packaging approach (if needed)	September 2020
<b>Phase 2 – rule change and engagement with stakeholders</b>	
Develop text of the new Handbook using input from the stakeholder reference group, conduct any specific consumer engagement needed and revise supervision and enforcement strategy.	September 2020 – January 2021
Board discussion prior to the rules consultation on the new Handbook	January 2021
Rules consultation on the new Handbook and revised supervision and enforcement strategy (for changes of this scale, a three-month consultation is essential)	February 2021 – May 2021
Board decision on text of the new Handbook	July 2021 (Away Day)
Handbook application submitted to the LSB	September 2021
<b>Phase 3 – implementation</b>	
Revise all operational policies, procedures and systems where necessary in preparation for examining, authorising, supervising and enforcing in accordance with the new Handbook.  Communications programme for the profession, including roadshows and website review  Consider developing a dedicated Handbook app  Staff training on the new Handbook	September 2021 – March 2022
Final text of the new Handbook approved by the LSB	December 2021
New Handbook formally comes into force	September 2022
Transition period, at the end of which students and pupils will be assessed against the new Handbook	TBC

13. While we are aiming for the final text to receive the Legal Services Board approval by December 2021, we propose a 'coming into force' date of September 2022. We believe this is necessary to give us and stakeholders time to adjust to potential new approach and provides for some contingency if the rule approval process takes longer than three months.

#### Next steps

14. We will present draft proposals on approaches to packaging of the Code of Conduct section of the Handbook (with examples) to the Board for discussion in July 2020.



## Bar Standards Board – Director General’s Strategic Update – 21 May 2020

### Public session

1. This paper provides a high-level strategic update on external issues and trends that are of relevance to the BSB but that are not the subject of substantive separate papers for the Board, to be noted by the Board.

### Central examinations

2. Consistent with Board decisions, we announced on 13 May that that the August sitting of the central Bar training examinations will be undertaken remotely. This will ensure that the examinations, which were cancelled in April, are able to go ahead in August even if health restrictions remain in force then. A contract was signed with Pearson VUE on 7 May to provide the examinations using remote proctoring technology which will ensure rigour. We are working with providers to ensure that, as far as possible, they can meet the needs of students requiring reasonable adjustments.
3. We have also confirmed that anyone due to complete their BPTC or BTT this summer who has been offered a pupillage will be permitted to start that pupillage in the autumn whilst awaiting their BPTC or BTT results provided those offering that pupillage are content for them to do so.

### Internal Governance Rules (IGRs)

4. We have reached an agreement with the Bar Council on the implementation of the new Internal Governance Rules and are now moving forward to implement the changes as soon as possible. The most significant change is that BSB will take over full responsibility for a range of people policies which bear on the recruitment, retention, motivation and development of our staff. This reflects the cultural distinctiveness of BSB as a regulator. We have started the process of recruiting a Head of People to lead the new function.
5. BSB has decided that it is more cost-effective to continue to share a number of other services, including finance and IS. Consistent with BSB’s independence, these services will in future be separately accountable to the BSB Director-General and to the Bar Council CEO, subject to consultation on policies and processes which must remain common in order to achieve economy of scale. The directors of these services will be members of BSB’s Senior Management Team.
6. A new joint BSB-Bar Council programme has formally been created to deliver the changes that result from the IGRs and its work is progressing well.
7. There will be training for all employees on the implications of the new IGRs and specialised training for those whose job roles are directly affected.

### Responding to the health emergency

8. The Board has a separate paper on BSB’s response to the health emergency. Since the paper was written, the Government has announced some relaxation of the measures taken to contain the virus. Despite these relaxations, BSB will continue to work remotely for the time being in order to relieve pressure on both our own people and on public transport. I am pleased to say that the BSB has transitioned well to working virtually.

9. Our core regulatory work continues (and in some cases, increases) but some projects, such as the Regulatory Return, have been delayed. We will also need to consider the regulatory implications of long-term consequences for the Bar of trends arising from this crisis: for instance, increased virtual working; the widespread use of remote technology for hearings; and the potential for a reduction in the numbers of pupillages being offered.

**Financial outlook for the BSB**

10. Finance Committee met on 28 April to review income and expenditure projects for the next two years. Since the Practising Certificate Fee makes up around 90% of our income and is set having regard to barristers' incomes much will depend on how those incomes are affected by the impact of the health emergency. Alongside the Bar Council, we are undertaking regular surveys of barristers' incomes and modelling a range of outcomes for the purpose of planning our budget and business plan for 2021/22.

**Chair’s Report on Visits and External Meetings from 19 March 2020 to 21 May 2020**

**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:**

9 April	Attended the Special Board meeting
27 April	Had a telephone discussion with Dr Helen Phillips
12 May	Attended the Chairs’ Committee meeting
16 May	Attended Bar Council
20 May	Attended the Board briefing
21 May	Attended the Board meeting