

**Cross-departmental programmes**

**Future Bar Training (FBT) programme**

1. Implementation of the FBT programme continues at a steady pace. Programme Board meetings for 2020 will continue to take place every other month and the FBT Oversight Team will continue to meet bi-weekly to discuss all outstanding policy and operational matters to ensure the continued smooth implementation of the programme. Public announcements have been made on the authorisation of providers of the vocational component.

***MyBar Projects***

2. We are working collaboratively with Resources Group to define the requirements needed to deliver all three MyBar projects, which aim to incorporate student registration and records management into our CRM system via the MyBar portal. A detailed project plan is being prepared for approval by the FBT Programme Board.

***Pupillage: Recruitment and Advertising (RecAd)***

3. Following the close of our targeted engagement programme, the project team have been working to finalise two proposals: mandating the Gateway timetable for all pupillage recruitment and introducing written agreements for pupillage (the proposal is that both requirements will be established as conditions of AETO authorisation). Mandating the timetable for recruitment will be discussed at the January 2020 Board meeting. If approved, the proposal would take effect from November 2020. Written agreements will be mandated from 1 May 2020.
4. Further announcements will follow the January Board meeting.

***Pupillage: Pupil Supervisor Training Outcomes***

5. We have published outcomes for pupil supervisor training. These are now included in the [Bar Qualification Manual](#). This framework was developed in consultation with the Inns, Circuits, the Bar Council and other barristers and recent pupils who were involved in workshops that we ran. The outcomes that we specify are the same for refresher training as training for first-time pupil supervisors.
6. The outcomes that we prescribe provide a broad framework setting out what the training should achieve. AETOs must ensure that their supervisors' training meets these outcomes. Together with guidance, they have been developed to help AETOs ensure that they and their pupil supervisors maintain high standards of pupillage training. They will also assist those who deliver pupil supervisor training courses or events to structure their training programmes.

***Pupillage: Minimum Funding Requirements***

7. In November 2019, we announced our new rates for 2020.
8. For the period 1 January 2020 to 31 December 2020:
  - £18,866 for 12-month pupillages in London
  - £16,322 for 12-month pupillages outside London
9. This means that all pupils who started on or after 1 September 2019 must be paid at the new rate from 1 January 2020. Monthly payments will need to be adjusted in order to comply with this requirement. This information has been updated in the [Bar Qualification Manual](#).

## ***Curriculum and Assessment Strategy***

10. We are currently finalising the details of the new requirements for assessment of Professional Ethics, Advocacy and Negotiation skills during pupillage that will be brought in for those who come through the new vocational component commencing in September 2020 (and are therefore likely to be starting pupillage from Autumn 2021). In spring 2020 we will be finalising the syllabus for a centralised examination in Professional Ethics and determining the outcomes of compulsory training to be completed in Advocacy and Negotiation. Training for Advocacy and Negotiation may be offered by a range of providers including Inns, Circuits and AETOs, and we are exploring whether optional preparatory training for the Professional Ethics assessment may also be desirable to supplement the contextual preparation that is gained from the workplace.

## ***Exams Implementation project***

11. The project continues and is on track. The team and project Board meet regularly. Key achievements since the last report include appointment of a Syllabus team member for Professional Ethics which will enable us to progress with the work-based learning syllabus and identification of a technological solution for marking for Professional Ethics which will assist with BAU now, and will then be used when the centralised assessment for Professional Ethics moves to the work-based learning/pupillage component. Reliance on external contractors for question writing and paper confirmation makes the timeline for the introduction of the new Civil Litigation exam challenging and we are giving this our close attention at present.

## ***Role of the Inns***

12. This month saw the new Inns Conduct Committee (ICC) Practice Rules and Guidelines come into force. The new Guidelines are an important part of the MoU between the Inns and the BSB and will be used for determining if a person is fit and proper person. From next month the Inns will re-open admissions using a new declaration, signposting student members to the roll out of DBS checks next year.
13. With these important milestones being met, the project team will shift focus to the oversight of Inns activities covered in the MoU and work to close the project by the end of the March.

## ***AETO Portal***

14. The Authorisation team is working closely with the PMO to resolve minor issues which do not affect the assessment of applications. The Authorisation and Supervision Team are noting feedback from end users and feeding back to the PMO to ensure that the portal is user friendly.

## **Regulatory Operations Programme (Modernising Regulatory Decision-Making)**

15. With the CAT & IDB projects now having been delivered, a RegOps programme board meeting is being convened at the end of January where a decision will be made by the Programme Board on closure of the programme, following scrutiny of the project closure documents for the CAT & IDB projects.
16. A programme-wide lessons learnt exercise was conducted for the RegOps programme and the key findings have been presented to the Senior Management Team. The report will shortly be circulated to all staff who participated in the RegOps programme and an action plan will then also be created. This will help ensure that the good practice identified can be disseminated across the other programmes and that the key issues that impeded progress in the RegOps programme can be addressed before other new programmes of work are initiated at the BSB.

17. More detail on business as usual in this area can be found under the relevant departments (Regulatory Operations and Legal and Enforcement.)

### **Equality and Access to Justice Programme**

18. In December 2019, the E&AJ Programme Board agreed to publish our Equality and Diversity Strategy for 2020 to 2022, in April 2020, and to present it to the Board in March 2020. This will then finally align with timescales for our main corporate strategy and Business Plans. In the meantime, we continue to engage key stakeholders in the development of our Equality and Diversity Strategy; and further the implementation of our equality objectives for 2017 to 2019. In collaboration with the Research Team, the E&AJ Team has produced its annual Diversity at the Bar Report, completed an externally commissioned literature review about the impact of equality and diversity policies in higher education, and developed an Invitation to Tender for research about discrimination and harassment at the Bar, which has been reviewed by our E&AJ APEX Adviser.
19. In November 2019, the Head of E&AJ delivered anti-discrimination training to IDB members and, in collaboration with One Pump Court, the E&AJ Team delivered pilot anti-racism training to barristers. In December 2019, the E&AJ Team delivered anti-discrimination training to the Legal and Enforcement Department.
20. In November 2019, the E&AJ Team met with academics from Cardiff University to support research about the experience of disabled practitioners at the Bar. This led to an invitation to deliver a workshop about the impact of our Equality Rules at the Legally Disabled Conference, in January 2020.
21. We have completed the first draft of our EIA of the Equality Rules and supplementary evidence report. This sets out the positive changes the Equality Rules have introduced, highlights where the Rules are not as effective at influencing positive working cultures as they could be and where we lack evidence to inform our analysis. We are arranging meetings with a number of stakeholders to mitigate the evidence gaps we have identified between January and May 2020.

### ***IGR Programme***

22. An update report has been submitted to the LSB on the progress we have made with the programme so far, towards compliance with the new rules by July 2020.
23. The Board has approved a new Constitution for the BSB, to achieve high level compliance with the Internal Governance Rules (IGRs) which were published by the Legal Services Board in July 2019. We are progressing with a review of the terms of reference and membership of our existing joint committees with the Bar Council (Audit and Finance) in order to comply with the IGRs.

### ***Scoping of the BSB Handbook Review Programme***

24. Following the closure of the call for evidence, the scoping of the Handbook review has continued. The Policy Team are in the process of establishing a Handbook review programme and agreeing milestones, resourcing and a Programme Initiation Document (PID) with the SMT. We will confirm the scope of the review in our Business Plan for 2020-21. The programme will be overseen by a Programme Board consisting of the SMT, Head of Programmes, Head of Policy & Research and Policy Manager. We also hope to establish a Handbook review Task Completion Group with APEX members and other regulatory experts.

## **Strategy & Policy**

### ***Professional Indemnity Insurance (PII) and BMIF***

25. BMIF is currently gathering data and information which they hope to share with us when complete. Once this information is available, we will work to develop a revised rule change application which we hope to submit by the end of this quarter or in the early stages of next quarter at the latest.

### ***Early Years of Practice***

26. The project reviewing the Qualified Person (QP) and three-year rules will be expanded to incorporate a review of the New Practitioner's Programme (NPP). The NPP reflects the continuing professional development (CPD) requirements for newly qualified barristers. This means that the two areas can be considered together with the aim of developing new Handbook rules alongside those which will be introduced as a result of the review of the Handbook.

### ***Immigration supervisors***

27. The Legal Services Board approved our rule change in December 2019 to prevent barristers and BSB entities from supervising an immigration adviser in accordance with section 84(2) of the Immigration and Asylum Act 1999 (IAA 1999) (as amended) if the adviser has been subject to serious sanctions with the Office of the Immigration Services Commissioner or an approved regulator under the Legal Services Act 2007. We are finalising guidance for barristers to support compliance with the new rule, which will be introduced into the new version of the BSB Handbook on 3 February 2020.

### ***Research***

28. AlphaPlus are continuing the Future Bar Training evaluation. They are conducting interviews with current and recent trainees to investigate their experiences training for the Bar, and surveys are currently running for both AETOs and Trainees to collect information on the implementation of the reforms (process evaluation) as well as baseline information for the impact evaluation (the extent to which the reforms have succeeded in meeting their objectives).
29. We have published the report of our Continuing Professional Development evaluation, conducted by IRN Research. The researchers undertook a literature review of theories and practice around CPD, held several focus groups and 40 interviews with barristers, held an internal workshop at the BSB to discuss emerging findings, and completed an online survey which received 566 responses.
30. The BSB commissioned a literature review covering the factors influencing Equality and Diversity policies in Higher Education, and their impact on student experience. This literature review has now been completed and is being used to inform the next stages of a wider project looking at the Equality and Diversity Policies of vocational training providers, in response to earlier research looking at differential attainment on the BPTC and the barriers to Bar training.
31. We have released an Invitation To Tender for a piece of research looking at experiences of discrimination and harassment at the Bar, with particular focus on gender, ethnicity, disability and sexual orientation. This will be a qualitative piece of work to provide more in-depth evidence to support the quantitative evidence around discrimination and harassment already available to the BSB.
32. The latest edition of the Diversity at the Bar report has been completed, with publication due this month. This is an annual publication that details the profile of the practising Bar, and monitors progress in ensuring a more diverse and representative profession, as well as any improvements in data disclosure levels compared to previous years.

33. Analysis is being undertaken to look at the impact of the change to the cut score/pass mark for the BCAT in 2018. This will help to inform future evaluation work on the BCAT changes.

### ***Regulatory Risk***

34. The SMT have recently agreed proposals for improving the joined-up identification and reporting of corporate and regulatory risk in the BSB. Building on the good work we have put in place to date, we will implement an approach which will improve the 1<sup>st</sup> line identification of risk, and which requires the Regulatory and Corporate Services risk teams to work flexibly to deliver a more joined-up understanding of the risks the BSB faces.
35. To support the implementation of these improvements in Risk Management we have run a successful recruitment campaign for a new Risk Officer, who will work in the Regulatory Risk team, but who will be required to work pro-actively with Corporate risk colleagues also.
36. Since the Contact & Assessment Team went live, the Regulatory Risk team have provided guidance on the application of the new Risk Assessment policy to information they have begun receiving, this engagement has proved very useful to all concerned.

## **Legal and Enforcement Department**

### ***The Independent Decision-Making Body***

37. The Independent Decision-Making Body started considering cases in October 2019. Since 15 October, seven Independent Decision-Making Panels have been held, six in relation to the enforcement cases and one to hear two authorisation appeal cases. In total the panels have considered 11 cases. The first quarterly IDB training sessions are due to take place on 30 January and 3 February 2020.

### ***The Independent Observer***

38. The Independent Observer, Ms Velia Soames, also commenced work formally on 15 October. She has already carried out 10 requests for review of decisions taken by staff and in each case has upheld the original decision: a further 10 cases are in the pipeline. She is due to carry out the first quarterly audit of cases in February.

### ***The Tribunal Representation Panel***

39. Following the open application process carried out in November 2019, the BSB has appointed 11 Kings Bench Walk as the chambers on the new Tribunal Representation Panel. 11 KBW will in future provide representation services for Disciplinary Tribunals and other enforcement hearings. The relevant members of 11 KBW completed training in the BSB's processes in December 2019 and commenced taking instructions on 1 January 2020.
40. The previous unpaid Prosecution Panel has been disbanded. However, those members of the panel already instructed in cases will continue to act for the BSB until the cases are completed and will be remunerated in accordance with the fee structure applicable to the Tribunal Representation Panel.
41. The costs of paid representation will, where appropriate, be claimed from respondents subject to proceedings.

### ***Staff vacancies***

42. The new Legal and Enforcement Department has unfortunately been operating at well below its full staff complement since October 2019 following four Officer resignations and pending recruitment to the new post of Paralegal (Complex Cases). All posts have now been filled and three new members of staff joined the department in January (a Legal Support Lawyer, a Case Officer and the Paralegal). The second Case Officer will join the Investigations and

Enforcement Team on 20 February and a commencement date for appointed Senior Case Officer will be agreed shortly.

43. The resignations referred to above, while unfortunate in terms of the coincidence in timings, were not due to any systemic issues: each person had different and external reasons for wanting to move on. Inevitably the situation will impact on the performance indicators for quarter four, but is hoped that we will recover the position fairly rapidly in early 2020/21 when the new staff are trained and operating at full capacity.

### ***Litigation***

44. In relation to the two discrimination claims from the same barrister which were reported on in previous months, the Employment Tribunal matter has been listed for a strike out hearing in February 2020. The High Court matter is currently being case managed towards a hearing. Any hearing would take place no earlier than April 2020.
45. The High Court has now struck out a civil claim in which the BSB was one of six respondents. That case alleged that the BSB committed fraud by false representation and breached the Claimant's Article 6 rights in not investigating a complaint against a barrister. We will be making an application for costs shortly.
46. In addition, a barrister facing disciplinary proceedings sought permission to judicially review a decision made by a directions judge relating to the admissibility of evidence. Permission was refused and we were awarded costs.

## **Regulatory Operations Department**

### ***Anti-Money Laundering and Counter Terrorist Financing***

47. On 10 January 2020, the [Money Laundering Regulations](#) were updated by the [Money Laundering and Terrorist Financing \(Amendment\) Regulations 2019](#). The Amendment Regulations contain changes brought in by the [EU's Fifth Money Laundering Directive](#). We have published [interim guidance](#) which summarises the key changes that affect barristers and BSB entities. The interim guidance was developed jointly by all the legal sector regulators. We are working with the legal sector regulators to update the Joint Legal Sector guidance to reflect these changes. The Legal Sector Affinity Group will be meeting this month to sign-off the updated guidance so that it can be submitted to HM Treasury for approval.
48. HM Treasury and the Home Office are beginning work on the third National Risk Assessment of Money Laundering and Terrorist Financing, to be completed by July 2020 in accordance with the timetable set out in the [Economic Crime Plan](#). We have submitted information to HM Treasury and the Home Office on the risks and vulnerabilities in the Bar and the mitigations in place. We will also be attending a workshop this month, along with other legal regulators, to discuss and agree a sector risk view for the National Risk Assessment.
49. Under regulation [51\(1\) of the Money Laundering Regulations](#) we are required to provide an annual supervision return to HM Treasury. We submitted the 2019 return to HM Treasury in November 2019.
50. A review of Trust and Company Service Providers and chambers conduct tax advisory work is currently under way, to assess compliance with the Regulations.

### ***Continuing Professional Development***

51. The Supervision team have completed a review of barristers who we assessed in 2018 as non-compliant with their obligations under the CPD rules. Those five barristers who have again been assessed as (again) non-compliant in 2019 have been referred to the Enforcement Department to consider disciplinary action.

### ***Transparency Rules Spot Check***

52. The Supervision team are currently undertaking a spot check of the BSB's transparency rules, which came into force on 1 July 2019. Chambers were given until December 2019 to come into compliance. We have selected a sample of sole practitioners, chambers and BSB entities to check their compliance with the rules and are in the process of contacting those organisations regarding any corrective action that may be required. We will publish a full report on the outcome of the spot check in due course.

### ***Regulatory Returns***

53. We are currently finalising the questions and guidance for the 2020 Regulatory Return, which we will test with support from the profession. More information on the timetable for completing the return will be published shortly. The Return gathers compliance information across the profession and is fundamental to our risk-based regulatory approach.

### ***Assuring Competence***

54. The assuring competence protect team met last month to agree a PID and draft strategy for publication, early next quarter at the latest. Following a successful discussion with the Chief Coroner, MoJ and SRA this month, a working group will be formed to develop material to drive standards and support barristers appearing in coronial courts. Work is also underway to scope out further engagement activities.
55. A member of the project team will also be engaging with the LSB on this subject later this month: the LSB has just issued a call for evidence on the subject of lawyers' ongoing competence.

### ***Authorisations***

56. Since the last report the Independent Decision-making Body (IDB) met for the first time on 5 November and considered two applications for review.
57. These review applications comprised one request for review of an ICC decision and another for a Qualified Foreign Lawyer seeking a review of the requirement to complete three months non-practising period. Both decisions originally made by the executive were upheld by the IDB. Further review applications have been received and will be considered at a meeting on 20 February 2020.
58. Authorisation of AETOs to deliver the vocational component continues. To date seven AETOs have been authorised, and two have not yet completed the process. The range of provision across the authorised AETOs is varied and will offer students more choice and better affordability than was previously available on the BPTC.
59. The pupillage/work-based learning AETO transitional arrangements are underway, feedback is being collated from the pilot group and the team is engaging with the PMO to address issues raised by end users. The team is working on applications from currently authorised PTOs who are considered "High Risk" to assess their suitability to be authorised under the new rules as AETOs. The target date for completion of this piece is March 2020 and all other currently authorised PTOs by December 2020.
60. Two agency staff have been retained to support the team and wider department following the restructure while new staff are undergoing a training period. A further three permanent members of staff have been recruited and have joined the team from January 2020.
61. Development of the pupillage registration online platform is in the planning stage and a concept paper has been drafted for the programme board.

62. Discussions are underway with the PMO regarding the development of online application forms via the MyBar portal.
63. There has not been a noticeable reduction in enquiries following the implementation of CAT (Contact and Assessment Team) in October 2019. We anticipate the volume of enquiries to reduce gradually over time as staff become more familiar with new ways of working and more familiar with each other's areas of expertise.

### ***Examinations***

64. BAU continues smoothly alongside the project work reported above. Work on the contingency papers for Spring 2020 has almost been completed, and we are about to start on the contingency papers for Summer 2020. The Chair's report for the Summer 2019 sit was published in December 2019; no requests for review were received.

### ***Contact and Assessment Team (CAT)***

65. The Contact and Assessment Team is settling into its new role. The team is fully resourced and the case management system is supporting their activities well and as expected. Performance against KPIs is slightly down against expected targets (it met KPIs on dealing with general enquiries but missed the two relating to initial assessment of cases and referrals of cases to other teams by around 10%). This is to be expected during the initial stages of the team as it becomes familiar with its new role, trains new staff into the team, becomes more able to deal with the large number of queries it receives and as the relationships with other teams and departments develop. We expect to see the performance improve over the next quarter. The Board is very welcome to meet with members of the team and/or to sit with them whilst they carry out assessments or deal with inquiries. We offer this to members of staff who have found it enlightening to see the variety of queries and referrals that the team receives. Board members should contact Oliver Hanmer should they wish to take up the offer.

### **Communications and Stakeholder Engagement**

66. Since this report was last prepared for the October Board, the following press releases and news announcements have been issued:
  - 23 October: the suspension of a barrister for attempting to mislead her then Head of Chambers;
  - 25 October: the suspension of a barrister for posting a number of offensive and disparaging comments about a member of the public on social media;
  - 29 October: the authorisation of BPP Law School as an Authorised Education and Training Organisation;
  - 12 November: the disbarment of a barrister following a conviction for offences relating to indecent photographs of children and failing to comply with a police investigation into the matter;
  - 13 November: the authorisation of Northumbria University as an Authorised Education and Training Organisation;
  - 15 November: the suspension of a barrister following findings of professional misconduct when practising as a solicitor;
  - 20 November: an increase in the minimum pupillage award to apply from 1 January 2020;
  - 26 November: the suspension of a barrister for engaging in unwanted conduct of a sexual nature;
  - 28 November: the authorisation of The City Law School, City, University of London, as an Authorised Education and Training Organisation;
  - 3 December: the publication of research into barristers' attitudes to the revised CPD scheme;
  - 9 December: the disbarment of three barristers following them being struck off the Roll of Advocates and Solicitors of the High Court of Malaya;

- 12 December: the authorisation of Nottingham Trent University as an Authorised Education and Training Organisation;
- 18 December: the suspension of a barrister for posting a series of tweets which were seriously offensive, abusive and publicly disparaging towards another barrister and to the BSB's regulatory process;
- 15 January: the authorisation of The University of Law as an Authorised Education and Training Organisation;
- 17 January: the publication of the annual Enforcement Report for 2018-19; and
- 20 January: the authorisation of Cardiff University as an Authorised Education and Training Organisation.

### ***Work in Progress***

67. In addition to business-as-usual activities, at the time of writing, the following pro-active communications are scheduled over the next few weeks and months:

- further announcements regarding AETO authorisations; and
- the publication of the latest diversity at the Bar statistics.

68. The team is also working on the following projects:

- finalising plans for public legal education activities following the Board's decision to withdraw from Legal Choices;
- plans to introduce the new Director-General to key stakeholders and to the media: and
- continuing to publicise the introductions last year of both the new Bar Qualification Rules and the new Bar transparency rules.

### ***Online and social media***

69. During October, 34,289 users visited the BSB website with 34,605 visiting in November and 30,671 visiting in December. At the time of writing, we have 22,791 followers on Twitter, 4,812 followers on LinkedIn and 773 followers on Facebook.

### **Governance and Corporate Services**

70. Board members Alison Alden and Steven Haines were reappointed for second terms from January 2020 (for a further four years). The departures of Aidan Christie QC in October 2019 and Zoe McLeod in December 2019 mean that the Board now has a membership of 13, with the lay majority of one that is required by our Constitution (and which is necessary for compliance with the IGRs).

71. The first cohort of members appointed to our Advisory Pool of Experts (in support of our policy development) have also been reappointed for their second three-year terms with effect from 1 January 2020. We continue to find it valuable to engage experts early in our work, and to engage more than one expert on a piece of work where that is appropriate. We are currently reviewing our workplan for the coming period, to determine if there are any other subject areas in which we might routinely need to seek advice and will recruit additional members if that is necessary.

72. We have agreed a new Service Agreement with the Council of the Inns of Court (COIC) for the provision of services (including hearings convened to consider allegations of professional misconduct against barristers in England and Wales) by the Bar Tribunals and Adjudication Service. This is for a further three-year period, with possibility of a further extension.

73. Planning for the next business year (commencing from the beginning of April) is underway, this being for the second year of our current three-year Strategic Plan. We set out our work plan with quarterly milestones for activities under each of our three strategic aims, and then will use that as the basis of monitoring of performance by the Board through its Planning, Resources and Performance Committee.

74. This is my last operational update to the Board, the public and the profession. It has been an immense privilege to lead the BSB for just over 9 years. Achievements in that time have been due to the capability and commitment of many staff and I wish the new Director General and the Board every success in the future.

**Vanessa Davies**  
**Director General**  
**January 2020**