

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



Meeting of the Bar Standards Board

Thursday 25 January 2024, 5.00 pm (Hybrid meeting - in person and online)

Rooms 1.4 – 1.7, First Floor, BSB Offices / MS Teams

Agenda – Part 1 – Public

This meeting will be recorded for the purposes of minute taking as previously agreed by the Board. Your consent to this is assumed if you decide to attend. The recording will be deleted once the minutes are formally approved at the next meeting

			Page
1.	Welcome / announcements (5.00 pm)	Chair	
2.	Apologies	Chair	
3.	Members' interests and hospitality	Chair	
4.	Approval of minutes from the last meeting (30 November 2023)	Annex A Chair	3-9
5.	a) Matters arising & Action List b) Forward agenda	Annex B Annex C Chair Chair	11 13-14
6.	Annual report on diversity at the Bar (5.05 pm)	BSB 001 (24) Ewen Macleod	15-21
7.	Reform of BSB's regulatory capacity (5.15 pm)	BSB 002 (24) Mark Neale	23-32
8.	Governance: Policies on Conflicts of Interest (5.20 pm) NOTE: ITEM WITHDRAWN: PAGES REMOVED	BSB 003 (24) Rebecca Forbes	33-47
9.	Director General's Report – Public Session (5.20 pm)	BSB 004 (24) Mark Neale	49-54
10.	Chair's Report on Visits & External Meetings	BSB 005 (24) Chair	55
11.	Any other business		
12.	Date of next meeting Thursday 21 March 2024		
13.	Private Session (5.35 pm)		

John Picken, Governance Officer
18 January 2024

<p>BAR STANDARDS BOARD</p>

REGULATING BARRISTERS

Part 1 - Public**Minutes of the Bar Standards Board meeting****Thursday 30 November 2023 (5.00 pm)****Hybrid Meeting, Rooms 1.4-1.7, BSB Offices & MS Teams****Present:**

Kathryn Stone OBE (Chair)
Gisela Abbam
Alison Allden OBE
Jeff Chapman KC
Emir Feisal JP
Steve Haines
Simon Lewis
Irena Sabic KC
Stephen Thornton CBE

By invitation:

Clare Brown (Regulatory Policy Manager, Legal Services Board)
Malcolm Cree CBE (Chief Executive, Bar Council) (via Teams)
Professor Mike Molan (Chair, Central Examinations Board)
Sam Townend KC (Vice Chair, Bar Council) (via Teams)
Nick Vineall KC (Chair, Bar Council)
James Wakefield KC (Hon) (Director, COIC) (items 1-10)

Press:

Neil Rose, Legal Futures (via Teams)

In attendance:**BSB Executive**

Ahmet Arikan (Senior Policy Officer) (items 1-8)
Ben Bray (Head of Risk-Based Regulation) (items 8-17)
Ben Burns (Policy Manager)
Julie Carruth (Supervision Manager) (via Teams) (items 1-7)
Christopher Fitzsimons (Communications Manager) (via Teams)
Rebecca Forbes (Head of Governance & Corporate Services)
Charlie Higgs (Examinations Manager)
Teresa Haskins (Director of People, BSB)
Saima Hirji (Acting Director of Regulatory Operations) (via Teams)
Oliver Jackling (Research & Evaluation Manager) (via Teams) (items 1-7)
Sara Jagger (Director of Legal and Enforcement) (items 1-8)
Poornima Karunacadacharan (Policy Manager)
Ewen Macleod (Director of Strategy & Policy) (via Teams)
Sophie Maddison (Authorisations Manager) (via Teams) (items 1-7)
Rupika Madhura (Interim Director of Standards)
Mark Neale (Director General)
Richard Parnham (Policy Manager)
John Picken (Governance Officer)
Natasha Ribeiro (Assessment Lead) (via Teams) (items 1-7)
Dr Victoria Stec (Head of Qualifications)
Wilf White (Director of Communications & Public Engagement)
Julia Witting (Head of Supervision) (items 1-7)

Item 1 – Welcome / Announcements

1. Kathryn Stone welcomed those present in particular those attending their first Board meeting ie:
 - Clare Brown
 - Sophie Maddison

Item 2 – Apologies

- Andrew Mitchell KC
- Professor Leslie Thomas KC
- Lorinda Long (Treasurer, Bar Council)

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 5 October 2023.

Item 5a – Matters arising & Action List

5. There were no matters arising. The Board **noted** the update to the action list.

Item 5b – Forward agenda

6. The Board **noted** the forward agenda list.

Item 6 – Performance Report: Quarter 2 (2023/24)

BSB 051 (23)

7. Mark Neale highlighted the following:
 - a continuing trend of high quality decision making as evidenced by the endorsement of our Independent Reviewers;
 - productivity gains for enforcement and authorisations; however, for the latter team the volume of applications received still exceeds capacity to administer. As previously reported, this is primarily due to a high volume of transferring qualified lawyer (TQL) applications, principally from lawyers based in Bangladesh and Pakistan.
8. To address this, he confirmed that some temporary posts have been created which, along with other colleagues, will constitute a Task Force to focus entirely on clearing TQL applications. This will last around 9 months.
9. He added that:
 - backlogs in the Contact and Assessment Team (CAT) have reduced but not at a quick enough rate so, it too, will need some extra short-term support;
 - early indications from the Fieldfisher review on enforcement suggests we need to strengthen the middle management of CAT in order to increase its resilience.
10. The Chair thanked both the authorisations and enforcement teams and acknowledged the sustained effort it has taken in addressing backlogs. Members commented as follows:
 - the number of disciplinary tribunals doubled in Q2 compared to Q1 which suggests this may become a performance concern for the future;

- the KPI figure for investigation of allegations (31.6% closure rate within the allotted time against a target of 80%) is, on the face of it, a concern;
 - the reason for the increase in TQL applications is not clear, nor why a backlog was allowed to develop, if the upward trend had been identified;
 - the KPI figures given in Annex A are mixed and some fall below 50%. The report should distinguish between standard and more complex cases so that the figures can properly account for outliers;
 - we should investigate the scope for cross-skilling staff so that peaks in demand can be managed across more than one team;
 - we should bear in mind the potential long-term benefits of transferring lawyers as this could eventually lead to greater commonality of standards;
 - the report states that 24 of the 64 live investigations are on hold for *reasons outside the BSB's control*. It would be helpful if future reports explained why.
11. In response to the first two points, Sara Jagger stated that:
- the increase in tribunals is a short-term consequence of the Accelerating Investigations programme. Numbers should fall back to normal levels soon;
 - a high proportion of the investigation caseload is complex and subject to delay. When any of these cases are resolved, they have already missed the KPI deadline so the figures look worse. The overall age profile of cases is now much younger and most of these should be closed within target time.
12. In respect of authorisations, the Executive commented that:
- the number of TQL applications now average 50 per month. This is well in excess of earlier years, and, despite strengthening the Team, we have not had the capacity to cope with this increased workload whilst still maintaining service levels in other areas;
 - the reason for the increase is still unclear but the Task Force will be in place for January so we can respond relatively quickly;
 - these applications are complex and conditional decisions are often challenged leading to requests for reconsideration. We are introducing a new and tighter policy on reconsiderations as part of the January launch;
 - more UK based solicitors are seeking to cross qualify as well.
13. Regarding other points raised, the Executive stated that:
- poor KPI figures are a product of the calculation process which places pre-eminence on timeliness. But they do not show, for example, that increased productivity from a targeted approach to older reports significantly reduced the age profile of cases. The balanced scorecard for performance due to launch in April 2024 will give a fairer picture;
 - we have already introduced a complexity rating for cases that go to investigation, and this will filter through in subsequent reports;
 - there is no objection to cross-skilling but equally no capacity among other teams to achieve it.
14. The Chair highlighted the need for more data on TQL applications to identify the cause for the uplift in numbers. Sam Townend KC restated the Bar Council's willingness to assist with any research undertaken. He also noted that chambers had not seen any appreciable rise in the number of barristers originating from either of the two countries identified. This suggests they are seeking Call but have no intention of practising at the Bar in England and Wales. Sophie Maddison confirmed that this seems to be the case.

15. In the light of this, Steve Haines queried the efficacy of the current situation given there is no obvious means to stem demand. He also followed up on a query raised by Nick Vineall KC about cost. Though we have agreed to increase fees in line with inflation with effect from 2024/25 we have yet to complete a full cost recovery analysis, and this is not due until the early part of next year. In his view, this is too late.
16. **AGREED**
- a) to note the report and the continuing high quality of work delivered by the regulatory decision making teams.
 - b) that future reports give a fuller explanation of cases where delays to progress are outside the control of the BSB. SJ to
note
MN
 - c) to investigate the reasons for the rise in applications from overseas lawyers seeking to transfer to the Bar for England and Wales and to involve the Bar Council as necessary.
 - d) that the Executive considers expediting its full cost recovery analysis of authorisation applications. RF

Item 7 – Annual report to the Board on Bar Training

BSB 052 (23)

17. The Board considered the annual report on Bar Training (the second in the series) and spoke positively about the document's coverage and readability. In response to questions raised, the Executive stated that:
- the pupillage uptake in Figure 1 of the report only applies to the 2021/22 cohort. The remaining places would have been taken up by barristers from earlier cohorts. We are aware that some places were not filled in the Northern Circuit but action is in hand to address that;
 - the comment in the report about bullying and harassment reflect themes identified through supervision work. BSB has worked directly with Authorised Education Training Organisations (AETOs) and addresses this issue through pupil supervisor training courses. A key objective of our chambers' initiative is to reform working cultures so that this type of behaviour is not tolerated.
18. The Chair reinforced the latter point. She also welcomed the support of the Bar Council Chair who has likewise challenged inappropriate behaviour at the Bar. She emphasised that training providers must act in line with their policies and in a consistent manner.
19. Members also commented as follows:
- it would be concerning to lose any pupillage providers but the report states that some Pupillage Training Organisations have yet to formally apply for AETO status;
 - a limited pool of pupillages creates extra challenges for achieving diversity targets. It would be helpful to know the publication date for the research work on barriers to diversity in pupillage recruitment. *Note: the Executive confirmed this should be available in the early part of the New Year,*

20. Simon Lewis raised the following points:
- we should follow up on the points about pupillage which the report identifies;
 - the evidence about cheating requires a decision to revert to pen and paper but we might reconsider the position in the longer term, possibly learning from other organisations in terms of good practice;
 - some of our assessments still require students to complete answers via a computer (eg for Drafting). Where students do use computers (but not online exam delivery systems) for AETO assessments, it would be helpful to know the effectiveness of the software used by them to detect plagiarism;
 - the report identifies a fall in part-time students. This is unfortunate because alternative pathways are an effective means to diversify the profession and the reasons for the decline (possibly a lack of course availability) might usefully be investigated.
21. In response, Mike Molan and Victoria Stec stated that:
- the integrity of our examinations is paramount so reverting to pen and paper was the only option available to us at the time. This decision will be kept under review, but we have to be satisfied there is no risk to the assessment;
 - the plagiarism detection software only applies to provider-based assessments, not the BSB central examinations, but used properly (ie not in isolation, but with human intervention) it has proved useful.
22. **AGREED**
- a) to note the report and authorise its publication.
 - b) that the Executive provides in due course further information on the re-authorisation of pupillage providers and on the uptake / availability of part-time courses.

**VS to
note**

Item 8 – Interim Suspension – Consultation response

BSB 053 (23)

23. Sara Jagger confirmed that, following a suggestion from the Legal Services Consumer Panel, we are now seeking to add a new criterion of “*protecting the public or the public interest*” in addition to those of clients, as grounds for referral of a barrister to an interim suspension panel. This is a clarification of wording only because we have always interpreted client protection / interests as having this wider context. There are no other changes to the documents from those seen earlier in the year by the Board.
24. Jeff Chapman KC welcomed the proposal which he regarded as necessary to fill gaps in the powers of Disciplinary Tribunals. Alison Alden sought assurances around the time it will take to launch the revised regulations.
25. In response, Ahmet Arikan confirmed that a two-week turnaround time is likely to be required. We need to seek approval from the Legal Services Board to implement the change after which it will take immediate effect.
26. **AGREED**
- a) to approve publication of the consultation response document (Annex A).
 - b) to approve the final proposed changes to Disciplinary Tribunal Regulations and the Interim Suspension and Disqualification Regulations (Annex B).

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Item 9 – Governance, Risk & Audit (GRA) Committee Annual Report 2023

BSB 054 (23)

27. Stephen Thornton introduced the report and highlighted in particular the insightful contributions of the Committee’s independent members. He also thanked Andrew Mitchell KC for chairing meetings in his absence and Rebecca Forbes for her administrative support. The Board **noted** the report.

Item 10 – Performance & Strategic Planning Committee – Mid Year Report 2023/24

BSB 055 (23)

28. Steve Haines highlighted the progress made on the balanced scorecard for performance. Though this is welcome, there remains a residual risk that necessary changes to IT software will not be ready in time for the planned launch in April 2024. The Committee has therefore asked the Executive to prepare the minimum viable product that will meet this deadline. The Board **noted** the report.

Item 11 – Reform of the BSB’s Regulatory Capacity

BSB 056 (23)

29. Mark Neale highlighted:
- the continuing good progress in the delivery of the plan;
 - some amendments to the milestones / timetable as set out in Annex A;
 - the stock take of our “Assuring Competence” programme which has identified four projects to take forward.
30. The Chair also welcomed the revised RAG rating scheme as requested at the last meeting.
31. In response to questions raised, Mark Neale stated that:
- plans are in hand to revise our operating model in 2024. This needs to be informed by the ongoing review of enforcement and authorisations;
 - the final report from Fieldfisher will be presented to the Board in April 2024.
32. **AGREED**
- a) to note the latest analysis of progress against the reform commitments as set out in Annex A.
 - b) to note the new RAG rating scheme.
 - c) to approve the draft assurance letter to the Legal Services Board as set out in Annex B.

MN**Item 12 – Director General’s Report – Public Session**

BSB 057 (23)

33. The Board **noted** the report. Members commented positively on the Chair and Director General’s contribution to a recent meeting of the Justice Select Committee.

Item 13 – Dates of Board Meetings January 2024 – March 2025

BSB 058 (23)

34. The Board **approved** the schedule of meetings as set out in the paper.

Item 14 – Chair’s Report on Visits and External Meetings

BSB 045 (23)

35. The Board **noted** the report.

Item 15 – Any Other Business

Nick Vineall KC

36. Nick Vineall KC stands down as Chair of the Bar Council at the end of the year and the Chair expressed her thanks for his contribution as a critical friend for the BSB. She welcomed the appointment of Sam Townend KC who takes over the role with effect from January 2024.

Item 16 – Date of next meeting

37. Thursday 25 January 2024.

Item 17 – Private Session

38. The Board resolved to consider the following items in private session:

- (1) Approval of Part 2 (private) minutes – 5 October 2023.
- (2) Matters arising and action points – Part 2.
- (3) Authorisations Review Project
- (4) Handbook Review update, 2023-2025
- (5) Corporate Risk Report.
- (6) Bar Standards Board Business Plan & Budget 2024/25
- (7) Director General’s Report – Private Session.
- (8) Reappointment of Board Members
- (9) Any other private business.

39. The meeting finished at 5.55 pm.

BSB – List of Part 1 Actions

25 January 2024

(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
16c (30/11/23)	investigate the reasons for the rise in applications from overseas lawyers seeking to transfer to the Bar for England and Wales and to involve the Bar Council as necessary	Mark Neale	end March 2024	17/01/24	Action in hand – set out in the performance section of the DG Update
16d (30/11/23)	consider expediting full cost recovery analysis of authorisation applications	Rebecca Forbes	25 January 2024	17/01/24	As above.
26a (30/11/23)	publish the BSB's consultation response document re: interim suspension	Ahmet Arikan	immediate	14/12/23	Completed – published on website with news release
26a (30/11/23)	contact LSB to seek rule change re: interim suspension	Ahmet Arikan	by end January 2024	17/01/23	To be completed – LSB application being finalised and LSB will be contacted shortly
32c (30/11/23)	send assurance letter to the Legal Services Board as agreed at the November Board meeting	Mark Neale	immediate	04/12/23	Completed – letter sent

Forward Agenda

Thursday 21 March 2024

- BSB Business Plan 2024/25
- Board Code of Conduct
- KPI pilot evaluation
- LSB Action Plan – progress report
- Outcome of consultation on our expectations of chambers
- Quarter 3 performance report
- Consolidated Risk Report
- Director General’s Report (public & private session)
- BSB Data and Intelligence Strategy: Scheme of work and public document
- BSB internal Anti Racist Strategy

Thursday 11 April 2024 (special meeting)

- Independent Review of Enforcements – findings

Thursday 23 May 2024

- Year-end report of the Performance & Strategic Planning Committee (PSP) 2023/24
- Q4 performance report
- Director General’s Report (public & private session)
- Corporate Risk Report (summary)
- Annual “deep dive” on the corporate risk register
- BSB internal Anti Racist Strategy for sign off
- Board appointments

Thursday 27 June 2024 (Board Away Day)

- Strategy & Capability
- External Board Evaluation

Thursday 25 July 2024

- Annual Report 2023-24 (including Cost Transparency Metrics)
- Director General’s Report (public & private session)

Thursday 26 September 2024

- Q1 performance report
- Director General’s Report (public & private session)
- Regulatory Decisions Annual Report 2023/24
- Independent Decision Making Body Annual Report 2023-24
- Budget Proposal – 2025/26 financial year
- Consolidated Risk Report
- Enforcement Review – consultation responses
- Draft strategy

Thursday 28 November 2024

- Mid year report from the PSP Committee
- GRA Annual Report
- Annual report – Bar Training
- Q2 performance report
- Director General’s Report (public & private session)
- Dates for Board Meetings (Jan 2025 – Mar 2026)
- Corporate Risk Report (summary)

Thursday 30 January 2025

- Annual Diversity Data Report
- Director General’s Report (public & private session)
- Annual “deep dive” on the corporate risk register

Thursday 27 March 2025

- Director General’s Report (public & private session)
- BSB Business Plan 2025/26 and final budget
- Q3 performance report
- Consolidated Risk Report

Meeting:	Bar Standards Board	Date:	25 January 2024
Title:	Annual report on diversity at the Bar		
Author:	Ewen Macleod		
Post:	Director of Strategy and Policy		

Paper for:	Decision: <input type="checkbox"/>	Discussion: <input type="checkbox"/>	Noting: <input checked="" type="checkbox"/>	Other: <input type="checkbox"/> (enter text)
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Paper relates to the Regulatory Objective (s) highlighted in bold below	
(a)	protecting and promoting the public interest
(b)	supporting the constitutional principle of the rule of law
(c)	improving access to justice
(d)	protecting and promoting the interests of consumers
(e)	promoting competition in the provision of services
(f)	encouraging an independent, strong, diverse and effective legal profession
(g)	increasing public understanding of citizens' legal rights and duties
(h)	promoting and maintaining adherence to the professional principles
<input type="checkbox"/>	Paper does not principally relate to Regulatory Objectives

Purpose of Report

1. To provide Members with an update on the diversity of the Bar.

Executive summary

2. This paper provides a summary of the annual Diversity at the Bar report. The Executive Summary of this year's publication is attached at Annex A. The full report is available in the Board reading area.

Recommendations

3. The Board is invited to note the report summary.

Discussion

4. Overall, this year has seen the continuation of several longer term trends, including an increase in the proportion of practising barristers who are female; who are from a minority ethnic background; who have primary care of a child; and who are aged 55 or more.
5. This year has seen a relatively large increase in individuals currently undertaking pupillage. The number as of December 2023 was 572, which is 84 higher than that seen in December 2022, and the highest number seen for any Diversity at the Bar report (the report started in 2015).
6. Response rates continue to increase across all categories except for gender, with a yearly increase in response rate of around 0.7-2 percentage points (pp) for the majority of the characteristics reported on (all except for gender, ethnicity and age, which already have a high response rate). Increases in response rate in the last

couple of years have slowed down quite considerably for monitoring questions on disability, religion or belief, sexual orientation and socio-economic and caring responsibility. We continue to encourage barristers to update their diversity data during Authorisation to Practice. We will continue to discuss how we might do this more effectively with our diversity taskforces.

Equality and Diversity

7. The data in the report are vital to inform our work to promote diversity and inclusion in the profession and to assess the impact of our policies by providing evidence for our equality impact assessment of all plans and policies.

Risk implications

8. That the Profession fails to reflect the diversity of society is one of the core risks identified in our Risk Index. This is fundamental to addressing our regulatory objective to encouraging an independent, strong, diverse and effective legal profession. The report contributes valuable evidence in meeting these duties and demonstrates that further work continues to be needed to address this risk.

Communications and Stakeholder Engagement

9. The Report will be published on our website and publicised in the usual way. One key message in our communications will be the upcoming consultation on the new Equality Rules, where we will set out our longer term objectives to promote diversity and inclusion. Whilst progress has been made in making the profession more diverse, more is needed to create a more equal and inclusive working culture.

Annex

10. Annex A – Executive Summary
11. The full report is included as Board reading material.

Executive Summary

This report presents a summary of the latest available diversity data for the Bar (covering pupils, practising King’s Counsel - KC - and practising non-KC barristers). The report assists the Bar Standards Board (BSB) in meeting its statutory duties under the Equality Act 2010 and sets out an evidence base from which relevant and targeted policy can be developed.

Overall, this year has seen the continuation of several longer term trends, including an increase in the proportion of practising barristers who are female; who are from a minority ethnic background; who have primary care of a child; and who are aged 55 or more.

The practising Bar

- The overall number of practitioners (including all pupils) at the Bar as of 1 December 2023 stood at 18,356: Of this number 572 were pupils, 2,045 were KCs, and 15,739 were non-KC barristers.
- This year has seen a relatively large increase in individuals currently undertaking pupillage. The number in the practising or non-practising stage of pupillage as of December 2023 was 572, which is 84 higher than that seen in December 2022, and the highest number seen for any Diversity at the Bar report (the report started in 2015).
- The number of non-KC and KC barristers has increased year on year (an increase of 217 non-KCs and 29 KCs.) The increase in the number of non-KCs at the Bar is broadly in line with that seen in several previous years since 2015, whereas the increase seen for KCs is a little lower.

Response Rates

- Response rates continue to increase across all categories except for gender, with a yearly increase in response rate of around 0.7-2 percentage points (pp) for the majority of the characteristics reported on (all except for gender, ethnicity and age, which already have a high response rate). Increases in response rate in the last couple of years have slowed down quite considerably for monitoring questions on disability, religion or belief, sexual orientation and socio-economic and caring responsibility.

Monitoring Category	2023 response rate (%)
Gender ¹	98.0
Gender Identity ²	51.5

¹ The monitoring question for this is: What best describes your gender?

² The monitoring question for this is: Is your gender identity the same as the sex with which you were assigned at birth?

DIVERSITY AT THE BAR REPORT 2023: DRAFT VERSION

Monitoring Category	2023 response rate (%)
Sex ³⁴⁵	37.1
Ethnicity	95.1
Disability	64.7
Age	89.6
Religion or Belief	60.4
Sexual orientation	62.1
Type of school attended from 11-18	62.1
Parent(s) attended university	58.1
Free school meals	33.6
Caring responsibilities for children	61.9
Caring responsibilities for others	60.2

Gender

- When excluding non-responses, the proportion of women at the Bar has increased 0.9pp since December 2022. As of December 2023, women constituted 40.6 per cent of the Bar compared to an estimate of 50.2 per cent of the UK working age population.
- The proportion of female KCs has increased year on year, from 19.2 per cent to 20.3 per cent (when excluding non-responses). There is still a large disparity between the proportion of the Bar who are female and the proportion of KCs who are female (40.6% vs 20.3%). The difference between the two has narrowed slightly in 2023.
- As of December 2023, 59.4 per cent of pupils were female and 40.6 per cent were male (excluding those that have not provided information on gender). The proportion of pupils who were female is similar to that seen in 2022.

³ The monitoring question for this is: What is your sex?

⁴ We collect information on sex and gender to ensure that we hold data on the protected characteristic of sex, whilst still collecting data about gender identity. We started collecting information on sex more recently than that of gender and the response rate is far lower as a result. The low response rate means that we do not report on sex any further in this report

⁵ Sex and gender are different concepts that are often used interchangeably. The UK government refers to sex as being biologically defined, and gender as a social construct that is an internal sense of self, whether an individual sees themselves as a man or a woman, or another gender identity

DIVERSITY AT THE BAR REPORT 2023: DRAFT VERSION

Ethnicity

- The percentage of barristers from minority ethnic backgrounds⁶ has increased 0.6pp since December 2022 to 16.9 per cent when excluding non-responses. That compares to an estimate of 16.7 per cent of the working age population in England and Wales as of April-June 2023.
- The percentage of barristers from minority ethnic backgrounds increased year on year (when excluding non-responses) by 0.6pp for non-KCs (from 16.9% to 17.5%); 0.2pp for KCs (from 10.5% to 10.7%); and by 2.2pp for pupils (from 22.7% to 24.9%).
- There is still a disparity between the overall percentage of barristers from minority ethnic backgrounds across the profession (16.9%), and the percentage of KCs (10.7%) from minority ethnic backgrounds (although the disparity is lessening over time overall). This may reflect some previous trends. For example, there was a lower percentage of such barristers entering the profession in the past. It may also suggest barriers to progression to KC status for practitioners from minority ethnic backgrounds.
- There are some notable differences when further disaggregating by ethnic group. There was a year-on-year increase in the overall proportion of Asian/Asian British barristers of 0.3pp; Black/Black British barristers of 0.2pp; and a decrease year on year in the overall proportion of Mixed/Multiple ethnic group barristers of 0.1pp; and White barristers of 0.6pp.
- When excluding those that have not provided information, there is a greater proportion of Asian/Asian British practitioners at the Bar compared to the proportion of Asian/Asian British individuals in the UK working age population (8.2% vs 7.0%), and the same can be said for those from Mixed/Multiple ethnic backgrounds (3.7% vs 1.7%). By contrast, there is a slightly smaller proportion of those from Black/Black British backgrounds (3.5% vs 4.1%), and a greater relative underrepresentation for those from other ethnic groups (1.5% vs 3.9%).
- There is also a greater disparity in the proportion of all non-KCs from Black/Black British backgrounds compared to the proportion of all KCs from the same background, with the disparity being particularly high for those of Black/Black British – African ethnic backgrounds.⁷

⁶ “Minority ethnic backgrounds” includes those from Asian/Asian British; Black/Black/British; Mixed/Multiple ethnic; and those of Other minority ethnic backgrounds. Previous ‘Diversity at the Bar’ reports used the acronym ‘BAME’.

⁷ 3.7% of non-KCs are from a Black/Black British background compared to 1.4% of KCs; 2.1% of non-KCs are from a Black/Black British - African background compared to and 0.5% of KCs.

DIVERSITY AT THE BAR REPORT 2023: DRAFT VERSION

Disability

- As of December 2023, there was a 3.2pp increase in the proportion of pupils with a declared disability compared to December 2022 (from 12.5% to 15.7%).
- There still appears to be an underrepresentation of disabled practitioners at the Bar. Although there is a relatively low response rate of 64.7 per cent, 8.2 per cent of those who provided information on disability status disclosed a disability, representing a 0.9pp increase on 2022. Despite the increase, this is substantially lower than an estimate of 16.5 per cent for the employed working age UK population with a declared disability as defined by the Equality Act 2010.

Age

- Those aged between 25 and 54 make up around 73.6 per cent of the Bar. This is a decrease compared to December 2022 of around 1.8 percentage points (75.4% vs 73.6%), with relatively more of the Bar in the 55-64 and 65+ age range in 2023 (25.4% of the Bar are aged 55+, an increase of 2pp compared to December 2022). This continues a general trend in the age profile of the Bar and compares to 14.8 per cent of the Bar aged 55+ in the first Diversity at the Bar Report in 2015.

Religion and Belief

- Including those that have not provided information, the largest group at the Bar is Christians (25.4%) followed by those with no religion (22.4%), although for pupils this is reversed. Excluding non-responses, around 46.1 per cent of the Bar were Christian (compared to around 49.1 per cent of the population of England and Wales, as per the 2021 Census), and around 40.7 per cent of the Bar had no religion (compared to around 40% for England & Wales).

Sexual Orientation

- Excluding those that have not provided information, 12.6 per cent of pupils, 7.2 per cent of non-KC barristers, and 5.3 per cent of KCs provided their sexual orientation as one of Bisexual, Gay or Lesbian; or another sexual orientation (not including heterosexual).

Socio-economic background

- The data suggest that a disproportionately high percentage of barristers attended a UK independent school between the ages of 11-18 even when including non-responses. Including non-respondents, 19.4 per cent of the Bar had attended an independent school, compared to approximately 6.5 per cent of school children in England at any age, and 9.8 per cent of UK domiciled young full-time first degree entrants in the UK in 2020/21. Of those providing information on school attended, around one in three attended an independent school in the UK.

DIVERSITY AT THE BAR REPORT 2023: DRAFT VERSION

- When excluding non-responses, as of December 2023: 0.5 per cent of the Bar had not attended university; 54.2 per cent had a parent attend university; and 45.8 did not have a parent attend university.

Caring responsibilities

- When excluding non-responses, 31 per cent of the Bar has primary caring responsibilities for one or more children. Overall, the proportion of the Bar with primary caring responsibilities for one or more children has increased by around 9.0pp since 2015, 6.0pp since 2018 and 1.4pp since 2022. The increase in the proportion of barristers who provide primary care for a child is seen for both male and female barristers, although there is a large disparity in the proportions involved: overall, excluding non-responses, around 41 per cent of female barristers, and 23 per cent of male barristers provided primary care for a child.
- Figures produced by the UK Office of National Statistics suggest that around 36 per cent of employed males, and 40 per cent of employed females are a primary carer for one or more children. This would suggest that the proportion of male barristers with primary care of a child is substantially lower than that seen in the broader working age population, and the proportion seen for female barristers is more similar. It is worth noting that as response rates are relatively low for this question, such inferences may not be reliable.
- Of those that provided a Yes/No response to providing care for another person (not including dependent children), around 15.6 per cent provided care for 1 or more hours per week. This is in line with the estimated proportion of those in work in the UK who are carers.

Meeting:	Board	Date:	25 January 2024
Title:	Reform of BSB's regulatory capacity		
Author:	Mark Neale		
Post:	Director General		

Paper for:	Decision: <input type="checkbox"/>	Discussion: <input checked="" type="checkbox"/>	Noting: <input type="checkbox"/>	Other: <input type="checkbox"/> (enter text)
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Paper relates to the Regulatory Objective (s) highlighted in bold below

- (a) **protecting and promoting the public interest**
- (b) **supporting the constitutional principle of the rule of law**
- (c) **improving access to justice**
- (d) **protecting and promoting the interests of consumers**
- (e) **promoting competition in the provision of services**
- (f) **encouraging an independent, strong, diverse and effective legal profession**
- (g) **increasing public understanding of citizens' legal rights and duties**
- (h) **promoting and maintaining adherence to the professional principles**

Paper does not principally relate to Regulatory Objectives

Purpose of Report

1. This paper updates the Board on our progress in implementing the reforms to which we committed in April of last year.

Recommendations

2. The Board is invited to note the latest analysis of progress against the reform commitments at annex A. A green rating denotes that purposeful activity is underway to broadly the expected timetable; amber denotes that we have materially adjusted what we aim to deliver or the timetable to which we intend to deliver it; and red denotes that the aim is unlikely to be achieved to any realistic timescale.

Overview

3. The intervening Christmas/New Year holiday means that few working weeks have elapsed since the last report to the Board at the end of November 2023. Nevertheless, we have maintained momentum. Significant developments include:
 - Fieldfisher has now delivered its preliminary report of the review of enforcement. The report, which has been considered by both the BSB Senior Leadership Team and the Bar Tribunal and Adjudication Service Strategic Advisory Board, is for discussion elsewhere on the Board agenda;
 - A consultation was launched on 8 January aimed at simplifying and updating the current definition of the academic understanding which prospective students must possess to be admitted to vocational Bar training. The consultation will run until early April and be complemented by workshops with stakeholders.

- A Solution Owner for the Customer Relationship Management (CRM) and Case Management (CMS) systems joined the Bar Standards Board/Bar Council in December. The postholder will work closely with the BSB Head of Change and joint PMO on scoping the changes to these systems needed to implement the recommendations of the Deloitte Review and of the Fieldfisher review of Enforcement. The aim will be to ensure that the systems support the efficient delivery of the revised end-to-end enforcement process.
 - Revised guidance on Continuing Professional Development was published in January to coincide with the new CPD year. We plan to ask a number of questions of all barristers about CPD experience and priorities as part of this year's Authorisation to Practise exercise.
4. Subject to any Board observations, I shall convey these developments to the CEO of the Legal Services Board in my usual post-Board assurance letter.

Annex

Annex A – latest monitoring return on progress against the reform action plan.

**Bar Standards Board
January 2024**

BAR STANDARDS BOARD**ACTION PLAN – TRANSFORMATIONAL CHANGE****Introduction**

1. The Bar Standards Board has adopted this plan for reform, which brings together a range of changes which the Bar Standards Board and Senior Management Team have commenced or have planned, in order to bring transformative change to the BSB. This change is being managed via the deployment of transformational programmes of work that each have appropriate governance and gated controls. The overall theme is one of continuous improvement. It seeks to bring about major change to the culture and capacity of the organisation, significantly to improve some of our key processes, and to tackle areas of underperformance. By the end of the plan we will be:
 - operationally excellent in delivering our core regulatory services. We already take consistently high quality decisions. We have markedly improved our productivity in the last year, particularly in concluding investigations. To high quality decision-making and high productivity we want to add consistently prompt and responsive service so that members of the public or barristers who use our services can be sure we shall take the right decision and do so efficiently and quickly;
 - on the front foot as a regulator, anticipating risks and opportunities, not just reacting to them. This means reforming our approach to capturing and analysing intelligence about the Bar. It means joining up the information we receive to build up a picture of emerging risks and empowering our front-line teams to act on the risks we identify. And it means gaining assurance that chambers are themselves effective in overseeing standards, equality and access. The result of this regulatory approach will be an engaged and proactive regulator which addresses risks to the public interest before the public sees or suffers any harm;
 - a force for change in the service that the Bar provides to the public. That means that the BSB deals not just with regulatory operations, but develops a broad and evidence-based understanding of the standards and skills the Bar will need to meet the future needs of consumers and the administration of justice. This aspiration is well expressed by our current strategic priorities of standards, equality and access. We shall take forward strategic change in collaboration with the profession, where that makes sense, or through targeted and proportionate regulation where necessary;
 - a collaborative regulator working closely with other legal regulators, with consumer groups and with the profession because we know we can achieve more through collaboration than by acting unilaterally. We shall, of course, regulate and take enforcement action where necessary but we know that a culture in which the public interest always comes first cannot be achieved through regulation alone; and
 - a self-confident and well-respected independent regulator. We shall achieve that by embedding a culture of continuous improvement which advances our values of fairness and respect, independence and integrity and excellence and efficiency. We shall see it reflected in our organisational performance results, the results of our annual People Survey and in the credibility BSB commands among its stakeholders.

2. The prospectus captures the Board's reform agenda under a number of key headings:
 - Performance;
 - Regulatory approach (including strategic change, intelligence and data, and reforming our Handbook and rules); and
 - Culture and capacity.

3. The Board will own and hold itself accountable for the delivery of the plan and receive reports on its implementation from the Director General and Senior Management Team at every meeting until completion.

Theme	Action	Lead	Contact	Milestone and timetable	Progress report		
					Date of update	Update on progress / completion	RAG
Performance	We will conduct an independent end-to-end review of our enforcement policies and processes to identify improvements and ensure that the system is operated effectively and efficiently in the public interest.	SJ	SJ / SH	Tender process – April – July 2023. Completion of review – by April 2024 with presentation of final recommendations to the Board. Interim report January 2024. Consideration and implementation of recommendations – 2024/25 dependent on extent of changes.	24/10/23	The review is proceeding in line with the agreed timetable. A report on emerging issues and areas to address was presented to the Steering Committee in October and forwarded to the SLT. The work in the next phase will include further interviews of internal and external stakeholders, surveys of users, IDB and BTAS panel members and case reviews. A report on emerging recommendations was presented to the SLT and to the BTAS Strategic Advisory Group in December. The report will be considered by the Board in January 2024 with final recommendations for change being put to the Board at a single-issue meeting in April 2024.	
	We will conclude the ongoing review into our decision-making processes for authorisations and implement its recommendations	SH	SH / VS	Delivered in phases with the first phase proposals for the overarching framework to be discussed with the Board before the end of 2023 and a public consultation launched in early 2024.	25/10/2023	This Project is on course. A draft consultation paper on the phase one proposals (dealing with the definition of academic legal training) was considered by SLT in early November and then by the Board at its meeting on 30 November 2023. The Board approved the consultation which was launched on 9 January and will run until 8 April. During this period we will plan workshops with our key stakeholders, particularly Bat training providers..	
	We will implement the recommendations arising from the Deloitte review of the fitness for purpose and durability of our key operating systems	MN	MN	Milestones will be aligned with the end-to-end review of enforcement processes, but changes to the operating systems are unlikely to be implemented before 2024-25		A Solution Owner for the CRA and CMS systems, as recommended by Deloitte, joined the Bar Standards Board/Bar Council in December. The postholder will work alongside the Enforcement Review which is also recommending re-engineering of the underlying IT systems	
	We will review the role of the Independent Reviewers in our enforcement and authorisations processes to identify improvements in the operation of this assurance mechanism and to ensure that it is procedurally fair.	SJ	RB	Review complete – end April 2023. Consideration of review outcomes by the Board – July 2023. Consultation and approval of any Handbook changes arising (subject to approval by the Board and the LSB) – July – December 2023. Implementation of revised approach – early 2024.	20/10/2023	Review complete and new policies adopted following the meeting of the Board on 5 October 2023.	
	We will agree and pilot a balanced scorecard to measure BSB's performance in delivering core regulatory operations	MN	AW	Year one: <ul style="list-style-type: none"> Agree shadow measures for piloting in May 2023 Year 2: <ul style="list-style-type: none"> Begin formally reporting against new measures 	20/10/23	We have identified the key risks and issues which could impact delivery and implementation. We have a range of current and planned actions to mitigate these including taking steps to ensure the relevant software and system functionality is available to support reporting, working with operational teams to ensure the reliability of data, communicating internally with staff on the aims and benefits of the project, and scoping a potential piece of consultancy with auditors RSM UK Risk Assurance Services LLP on measures of productivity.	

Theme	Action	Lead	Contact	Milestone and timetable	Progress report		
					Date of update	Update on progress / completion	RAG
Regulatory approach – Strategic change	Establish a standards assurance framework which will set out clearly our expectations of barristers and their chambers and employers on how to maintain standards of practice at the Bar	RM	B Burns	Develop framework during 2023/24 business year and implement in Q1 of 2024/25		<p>Since September, our Assuring Competence (AC) Programme has been led by our Director of Standards and a new policy manager. They have completed a thorough stocktake of the programme, on which we will brief the LSB.</p> <p>We are on track to develop our Assuring Standards Framework (ASF) in this business year and start to implement it by Q1 of the next business year. Implementation will be incremental, for example, so that we can pilot, evaluate, and refine elements of our ASF to ensure its success.</p> <p>Our ASF will use improved forms of education and outreach to clarify our expectations of barristers and their chambers or employers. It will also deploy an enhanced approach to supervising and enforcing against issues of competence. As part of this work, we are preparing to run an internal pilot to identify any gaps, barriers, or issues in our regulatory framework or how we apply it.</p>	
	Refine our approach to assuring professional competence of barristers including a refresh of the competences we expect barristers to demonstrate, our approach to CPD and the regulation of competence and standards in the early years of a barrister's career	RM	B Burns	Complete reform to CPD and commence supervision against the new arrangements by April 2024		<p>Following the thorough stocktake of our AC Programme, we have decided to proceed with four projects. Namely, our ASF, our Competence Monitoring Framework, a project on CPD, and a project on our Professional Statement (PS).</p> <p>To ensure the success of our AC Programme and deliver work that is targeted, proportionate and evidence-based, we will pursue any fundamental or structural changes to our CPD regime or PS as part of our next strategy if we identify evidence that provides a clear rationale for it (e.g. through our CMF and ASF projects). The milestone to deliver complete reform to CPD is no longer relevant. Nor is it committed to in our AC Action Plan.</p> <p>For the remainder of our current strategy, we will maximise the potential of our existing arrangements and implement a data and intelligence-led approach to competence. This will include several measures to enhance our approach, including to CPD. This business year, we will roll out new CPD guidance and templates to clarify our expectations and help our regulated community meet them. Subject to legal advice, we will also update the Professional PS to strengthen its link to ongoing competence. We continue to assess the need for additional competencies or competency statements. Our Technology at the Bar research, which we plan to publish this business year, forms part of this work.</p> <p>Measures we will take in the next business year include an enhanced approach to supervising CPD compliance (from Q1) and completing research about our New Practitioner Programme. These steps will help to create an evidence base for any fundamental or structural changes to our CPD arrangements.</p>	

Theme	Action	Lead	Contact	Milestone and timetable	Progress report		
					Date of update	Update on progress / completion	RAG
Regulatory approach – Strategic change (cont.)	We will undertake a thematic review of the quality of vocational Bar training providers, how they ensure that standards are maintained once a student is admitted and what systems are in place to ensure that a student develops to their full potential, whatever their starting point.	RM	JW	Research and analysis carried out during 2023/24 with final report and recommendation considered by the Board by April 2024.	24/10/23	The thematic review is in progress. The latest annual report on Bar training was presented to, and discussed by, the Board at its meeting on 30 November.	
	We will focus on promoting public legal education in collaboration with our fellow regulators and with other frontline providers of help to those in legal need	WW	WW	This is an ongoing commitment and the Board last reviewed our PLE strategy in May. All our projects are evaluated in terms of their reach and impact.	24/10/23	We continue to support projects with frontline PLE providers such as Law for Life, Citizens Advice, Support through Court and Refugee Action and we have now rejoined the Legal Choices website and look forward to playing an active role in its future development.	
	We will continue to ensure that our transparency rules are being complied with and are being effective	EM	RP	Compliance checks are ongoing and we will consider next steps on transparency in the light of our DCT market study and other evaluation work undertaken to date.	24/10/23	Compliance checks are continuing in Supervision. Some clarification changes have been made to the transparency guidance on the website, based on Supervision recommendations.	
	We will continue our examination of the role of new technology in the legal services market and our participation in the work of LawtechUK and we will also be looking at whether consumers' interests can be well served by online comparison or by other intermediaries offering to broker access to barristers	EM	HF	This is an ongoing commitment (we now have dedicated policy staff taking this work forward) and we will review the DCT pilot following its conclusion.	26/10/23	This work is continuing – see below for update on DT evaluation and technology research.	

Theme	Action	Lead	Contact	Milestone and timetable	Progress report		
					Date of update	Update on progress / completion	RAG
Regulatory approach – Intelligence & data	We will overhaul our approach to the gathering, collation and analysis of the intelligence we receive from a wider range of sources	EM	BBray	Year one: <ul style="list-style-type: none"> Create and publish a data and intelligence strategy Year two <ul style="list-style-type: none"> Commence implementation of agreed strategy 	20/10/2023	The Data and Intelligence Strategy work is progressing. We have considered the planned vision and objectives of the strategy and assessed how we feel the BSB is meeting these in a current state analysis. The project is currently at the Future State Analysis phase, where we seek to understand the changes needed to be made in future years to meet our objectives. The full strategy and proposals will go to the Board in March 2024	
	We will review our current risk framework to make sure that intelligence is joined up and that our front-line teams have more discretion to act promptly in response to emerging risks	EM	BBray	Year one: <ul style="list-style-type: none"> Complete review Year two: <ul style="list-style-type: none"> Implement new processes 	20/10/2023	The Provisional Report of the Risk Framework Review has been completed. The elements of the review that involve BSB strategy were discussed at the Board Away Day in July 2023. The team has now drafted the final report, including implementation plan, which was approved by the Senior Leadership Team at a meeting on 3 October and will go for Board approval in January 2024.	
	We will continue to use our research team and commissioned providers to publish evidence in support of policy changes, to better understand the market for barristers services and to evaluate the impact of any reforms. We will seek to collaborate with the other legal regulators on cross-cutting matters, such as on consumer-focused research.	EM	OJ	Year one: <ul style="list-style-type: none"> We shall undertake research with pupillage providers to investigate the recruitment outcomes of different approaches aimed at increasing diversity. We aim to complete our evaluations of our DCT pilot and our Bar training reforms by end of 2023-24. We also plan to undertake analyses of enforcement outcomes and begin to build a more substantive evidence base in relation to the use of technology and innovation at the Bar in 2023-24. Year two: <ul style="list-style-type: none"> In 2024-25 we intend in particular to look at the extent to which solicitors offer their clients a choice of barrister and at whether access to justice in future may be threatened by a lack of barristers as the profession ages 	16/01/24	Broadly on track: <ul style="list-style-type: none"> Pupillage research: quantitative and qualitative reports have been received. The qualitative report will be considered by the Programme Board shortly, followed by the quant report. DCT evaluation: the pilot has closed and we are undertaking the evaluation fieldwork. The barrister survey is about to launch and YouGov will be launching a consumer survey next month. Although the work will be complete, publication is likely to happen early in the new business year. Bar training: draft evaluation report expected by the end of the business year. Enforcement outcomes: draft report expected by the end of the business year. Technology research: stakeholder interviews have been completed, recruitment about to begin for barrister interviews. Unlikely to have been completed by end of business year, based on recent experience of time taken to complete similar fieldwork. We are in discussions with the SRA on whether it would like to participate in the research identified for next year. 	

Theme	Action	Lead	Contact	Milestone and timetable	Progress report		
					Date of update	Update on progress / completion	RAG
Regulatory approach - Reforming our Handbook & rules	We recognise the need to revise the Handbook, to ensure that it is easily navigable and easily understood by both barristers and the public alike, and represents good regulatory practice. We shall be making design changes to the layout of the Handbook and Code of Conduct with this in mind, in the meantime taking forward essential amendments to the Code of Conduct and Handbook, including amendments flowing from other priority work programmes.	EM	RP	<p>In year one:</p> <ul style="list-style-type: none"> We will identify any urgent Handbook changes that are needed to address gaps or improve efficiency in the short to medium term. We will complete our review of the regulation of standards in non-professional life and of barristers' use of social media in the light of our recent consultation. We will complete our review of the Equality Rules to ensure that they remain fit for purpose and clearly set out minimum standards for chambers' and employers' oversight of diversity, including appropriate governance. We will also be looking at our "association rules" which regulate how barristers interact with intermediaries which provide information about their services. <p>In year two:</p> <ul style="list-style-type: none"> We will begin systematically consulting on more strategic changes to the Handbook, taking on board challenge and feedback from a variety of stakeholders. 	20/10/2023 (RB)	<ul style="list-style-type: none"> Board is considering high priority Handbook amendments at its January meeting, including clarification that the BSB can consider conduct issues raised in report on a client's own barrister in parallel with the Legal Ombudsman's consideration of service complaints. Conduct in Non-Professional Life project now complete with the publication of new guidance on the regulation of non-professional conduct and social media use published in September 2023. (RB) The equality rules have been reviewed and we are in the process of finalising draft rules for consultation from March. The review of associations is being set up as a project and a PID has been drafted. 	
	We will develop arrangements for the assessment of advocacy and negotiation skills during pupillage as the final part of our reforms to Bar training	RM	VS	New means of assessment for advocacy will be in place by Sept 2024 and negotiation in Sept 2025	24/10/23	Significant progress has been made in this area; extensive engagement has taken place with stakeholders including the Inns and Circuits, pupils, members of the BSB's equality taskforces and experts in advocacy and negotiation/mediation. A version of the documents outlining the requirements for advocacy is currently with the Inns and circuits for comment, with responses due by the end of October. We will then publish the final version of the documents for advocacy, with the new courses starting in 2024 as planned. We have also developed draft requirements for negotiation; however, as this is a new course and the proposed approach is more novel, this will require further thought and development. However, it is still likely to be completed in line with the planned timetable.	

Theme	Action	Lead	Contact	Milestone and timetable	Progress report		
					Date of update	Update on progress / completion	RAG
Culture & capacity	We shall ensure that the Board itself exemplifies the values of the BSB, refreshes its equality and diversity training regularly and undertakes annual reviews of its governance, including an independent review every third year	KS	MN / RF	An annual Board self-appraisal will take place in Summer 2023; an independent appraisal will take place in Summer 2024. Equality and diversity training, delivered in Q4 2022/23, will be refreshed in 2024/25.	26/10/23	Annual Board self-appraisal considered by the Board in October 2023. Appraisal of Chair completed in September 2023. Appraisal of Board members also now completed. External independent evaluation planned for Summer 2024; Invitation to Tender to be finalised early in 2024. Equality and diversity refresher training for the Board scheduled for March 2024.	
	We will continue to implement our programme of embedding our values and behaviours to deliver a culture of continuous improvement	TH	TH	Delivery of the 2023/24 organisational learning plan, to be launched in April 2023 and completed by March 2024 On going delivery of senior leadership development and teambuilding, plus delivery of a leadership development programme by April 2024	23/10/2023	Delivery of the learning plan is progressing well. Leadership development activities are continuing and the project is on track.	
	We will review our processes for recognition and performance management to ensure that they support our values and help to deliver continuous improvement	TH	TH	Launch of a revised recognition scheme by December 2023 Launch of a revised performance management system by April 2024	23/10/2023	Slight delay to recognition but there is a draft policy and an EIA is in progress. Performance management is on track.	
	We will periodically review our implementation of the Internal Governance Rules, with the aim of enhancing regulatory independence within the current legislative framework.	MN	MN	To be conducted annually.	26/10/23	We are engaging with the Bar Council on follow-up our letter of 19 April following our review in 2022/23 of the current arrangements for shared services. The LSB's review of the Internal Governance Rules is relevant to the future development of the BSB/Bar Council relationship	
	We will continue to pursue the governance reforms in our Well Led Action Plan and in this action plan in response to the LSB's Regulatory Performance Review	MN		To be concluded by Summer 2023 where not continuing	26/10/23	The reforms are now fully implemented.	

Theme	Action	Lead	Contact	Milestone and timetable	Progress report		
					Date of update	Update on progress / completion	RAG
Culture & capacity (cont.)	We will promote engagement and collaboration with consumer organisations, the profession and other regulators	WW		This is an ongoing commitment.	24/10/23	All policy papers going to the Board must now include a section on stakeholder engagement and we continue to pursue collaborative initiatives in a number of areas (eg with PLE providers, with the profession and with consumer groups) as appropriate. We publish regular bulletins for the profession and for consumers and are about to begin a series of roundtables in every circuit to discuss our proposals for consolidating our regulatory requirements for barristers in chambers with the profession and other key stakeholders.	

Bar Standards Board – Director General’s Strategic Update – 25 January 2024**For publication****Performance**

1. The Board meeting comes too soon for a full analysis of third quarter performance for 2023/24 which we shall report at the March meeting of the Board. I can, however, circulate at annex A the information about trends in the Bar Standards Board’s operational performance which we sent to the Justice Select Committee earlier this month following the Chair and my appearance before the Committee on 28 November.
2. As foreshadowed at the last Board meeting on 30 November, I can report that we have now established a separate, temporary task force within the Authorisations Team to deal with the backlog of applications from transferring overseas lawyers. We have also given further thought to the future handling of such applications from overseas lawyers who are seeking to be called to the England & Wales Bar but do not intend to practise in England & Wales. (We welcome applications from appropriately qualified overseas lawyers who do intend to practise here.)
3. In the light of this further consideration, we have set in hand an exercise to analyse the costs of handling such applications to ensure that we are applying our current policy of recovering the full economic cost through the fee. We expect to report to the Board at its March meeting and to recommend a fee for 2024/25 which reflects the current policy. This will ensure that the costs of handling such applications do not fall back on the England and Wales.

Chambers

4. We are continuing our second sequence of roundtables, with visits to Manchester in December and to Swansea this month. These have yielded consistently constructive and engaging discussions.
5. We note the reservations expressed in his inaugural address by the new Chair of the Bar Council about the consolidation of chambers as a route to critical mass. However, we are not proposing to take regulatory action to promote consolidation. We said in our consultation document that: *While we would welcome such steps where supported by barristers in the chambers concerned, we do not judge that, as regulator, we should currently adopt an active policy of bringing about consolidation.* We do, however, regard consolidation as one possible means by which consenting chambers could create the necessary infrastructure of support to improve their effectiveness at promoting equality, at tackling discrimination and at overseeing standards and access. These are our aims, not regulatory compliance for its own sake.

Annex

6. Annex A - Bar Standards Board submission to the Justice Select Committee on operational performance.

Mark Neale
Director General

JUSTICE SELECT COMMITTEE

NOTE ON THE OPERATIONAL PERFORMANCE OF THE BAR STANDARDS BOARD

At the evidence session on the regulation of the legal professions on 28 November, the then Chair of the Bar Council undertook to provide a note on the operational performance of the Bar Standards Board (BSB). This note from the Director General of the BSB fulfils that commitment.

Background

The Bar Standards Board is the independent regulator of the Bar, exercising the regulatory functions delegated to it by the Bar Council under the Legal Services Act 2007. In exercising its regulatory functions, the Bar Standards Board aims to promote the public interest as defined by the Regulatory Objectives set out in Section 1 of the Act.

As part of this broader public interest regulation, the Bar Standards Board acts as the gatekeeper and disciplinarian for the Bar. Our operational performance reflects the exercise of these gatekeeping and enforcement functions which can be summarised as follows:

- **Authorisations**, dealing with applications from HE institutions to provide Bar training, from chambers and employers to provide pupillage, from prospective entities (authorised or licensed bodies), and from organisations or individuals (transferring lawyers for example) for authorisations, waivers or exemptions in line with the Bar Standards Board's Handbook rules.
- **Contact and assessment**, the initial assessment or triage of the reports which the Bar Standards Board receives about the conduct of barristers. In recent years, the Bar Standards Board has received between 1,700-2,000 such reports. The purpose of the assessment is to determine whether the reports are of regulatory interest and warrant further action.
- **Investigations and enforcement**, the investigation of those reports which are assessed to be of regulatory interest and, where warranted by the investigation, the taking forward of enforcement action. The Bar Standards Board undertakes 120-180 investigations annually.
- **Supervision**, the reactive work of the Supervision Team in following up reports referred to the Team after initial assessment. On average, 80-120 reports are referred to the Supervision Team annually from the Contact and Assessment Team, and the Team opens a further 60-80 cases each year as they undertake a range of proactive work in support of the Bar Standards Board's public interest objectives by gathering intelligence and monitoring compliance with regulatory requirements.

Performance

The Director General reports on operational performance to the Board every quarter. Those reports are discussed in public sessions of the Bar Standards Board and can be read on the BSB website¹.

¹ <https://www.barstandardsboard.org.uk/about-us/how-we-regulate/our-governance/our-board/board-meetings.html>

The table below summarises performance over time against the Bar Standards Board's published Key Performance Indicators. It generally shows a trend to improving performance and underlines the consistently high quality of the Bar Standards Board's decision-making which is independently audited every quarter.

Authorisations

	2021/22	2022/23	Q1 2023/24	Q2 2023/24
Authorisation, Exemptions and Waivers				
Applications determined within six weeks of receipt of the complete application. (Target 75%)	43.9%	36.7%	40.9%	43.3%
Applications determined within eight weeks of receipt of the complete. (Target 80%)	57.6%	45.7%	47.8%	55.4%
Applications determined within twelve weeks of receipt of the complete application. (Target 98%)	82.1%	69.8%	64.5%	75.4%
Entity (including ABS) Authorisation				
Authorisation decisions made within six months of receipt of the application and associated fee. (Target 90%)	92.3%	57.1%	83.3%	100%
Authorisation decisions made within nine months of receipt of the application and associated fee. (Target 100%)	100%	85.7%	83.3%	100%

Contact and Assessment Team (CAT)

	2021/22	2022/23	Q1 2023/24	Q2 2023/24
General enquiries				
Substantive responses to general enquires, that can be addressed by CAT, provided within 5 working days. (Target 80%)	80.3%	76.2%	94.9%	95.8%
General enquiries, which cannot be answered by CAT, that are referred to another team within 3 working days. (Target 80%)	57.1%	57.5%	74.3%	83.3%
Initial Assessment				

	2021/22	2022/23	Q1 2023/24	Q2 2023/24
Reports assessed and concluded by CAT, or referred to another team for action, within eight weeks. (Target 80%)	49.1%	58.1%	60.5%	59.2%
Quality indicators				
Cases where the Independent Reviewer upholds the original decision following a request for review. (Target 95%)	98.4%	97.9%	100%	100%

Investigations and Enforcement

	2021/22	2022/23	Q1 2023/24	Q2 2023/24
Referral of cases				
Cases referred by CAT to another team for regulatory action that are accepted or referred back to CAT within 2 weeks. (Target 80%)	53.8%	46.6%	100%	91.2%
Investigations of allegations				
Investigations of allegations of breaches of the Handbook completed, and a decision taken on disposal, within 25 weeks of acceptance. (Target 80%)	34.1%	42.9%	48.4%	31.6%
Quality indicators				
Cases where the Independent Reviewer upholds the original decision following a request for review. (Target 95%)	83.3%	80.0%	50.0%	100%
Appeals against the imposition of administrative sanctions and % successful. (Target 0%)	100%	33.3%	n/a	100%
Appeals of Disciplinary Tribunal decisions concluded and % successful attributable to procedural or other error by the BSB or discrimination in the decision-making process. (Target 0%)	0.0%	20.0%	0.0%	n/a

Supervision

	2021/22	2022/23	Q1 2023/24	Q2 2023/24
Allocations				
Cases assigned within 3 working days of the team receiving the referral from CAT. (Target 80%)	96.6%	100%	100%	100%
Regulatory response				
Cases for which a regulatory response was agreed within 20 working days of the case being assigned. (Target 80%)	89.8%	94.4%	95.2%	97.9%
Visits				
Visit report letters issued within 5 working days of a visit to an organisation. (Target 80%)	100%	90.0%	100%	0.0%

The main exception to this improving trend is in relation to some of the measures of timeliness. This is, however, largely a reflection of how these key performance indicators are defined: as the proportion of cases completed within a set time limit over the relevant period. Where, as in the recent past, the Bar Standards Board has been clearing backlogs of older cases – which came about as the result of the 2022 cyber-attack, of growing volumes of cases and of difficulties in filling vacant posts – the effect is to depress the headline key performance indicator. Indeed, the more effective the Bar Standards Board is in clearing older cases, the worse the indicator becomes.

A better measure of recent performance, therefore, is to look at the productivity of the relevant teams (which reflects their success of clearing older cases as well as the flow of new ones). This shows that:

- the Contact and Assessment Team has assessed 911 reports from April to September 2023 compared to 1582 in the full preceding year and has reduced its caseload in three of the last four quarters;
- the Authorisations Team dealt with 240 applications in the second quarter of 2023/24 – the highest total for a year – although the Team continues to be challenged by rising numbers of applications from transferring overseas lawyers;
- the Investigations and Enforcement Team reduced its investigation caseload from 178 at the beginning of the third quarter of 2022/23 to 90 at the beginning of the third quarter of 2023/24, concluding 117 investigations in the third and fourth quarters of 2023/24.

The Bar Standards Board intends to introduce revised measures of operational performance from 2024/25 in the form of a balanced scorecard which will provide the Board and external stakeholders with a richer picture of performance covering: the quality of decisions and the decision-making process; productivity in dealing with cases, the timeliness of decisions and the quality and responsiveness of our service.

Mark Neale
Director General
January 2024

Chair’s Report on Visits and External Meetings from Dec 2023**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:**Introductory meetings**

- | | |
|-------------|--|
| 4 December | Met with Robert Bourne, outgoing Chair of The Law Society and Ameerdeep Somal, incoming Chair of The Law Society |
| 14 December | Met with Kevin Gould, Vice-Chair of IDB |

Meetings

- | | |
|-------------|--|
| 4 December | Attended Remuneration Committee |
| 5 December | Attended Chairs’ Committee |
| 9 December | Met with Sam Townend KC |
| 14 December | Met with Sir Nicholas Green, James Wakefield KC (Hon) (COIC), Anne Sharp (Treasurer, Lincoln’s Inn) accompanied by Mark Neale and Ewen MacLeod |

1-2-1 Meetings

- | | |
|------------|-----------------------------|
| 6 December | Met Stephen Hockman KC |
| 6 December | Met Alan Kershaw, Chair LSB |

Events

- | | |
|-------------|--|
| 5 December | Attended Manchester Roundtable |
| 7 December | Attended Denning Lecture and Reception, Gray’s Inn |
| 13 December | Attended GCB Christmas lunch |