

BAR  
STANDARDS  
BOARD

REGULATING BARRISTERS

The Bar Standards Board



ANNUAL REPORT

**The Bar Standards Board regulates barristers in  
England and Wales in the public interest**

# Our values

## INTEGRITY

- ▶ We operate to the highest ethical standards
- ▶ We are honest, open and inspire trust
- ▶ We consider the social and environmental impact of our actions

## EXCELLENCE

- ▶ We are committed to quality
- ▶ We are creative, innovative and lead change
- ▶ We are responsive, accessible and accountable for our actions

## FAIRNESS

- ▶ We act responsibly, proportionately, and in the public interest
- ▶ We promote equality of opportunity and equal access to justice for all
- ▶ We value inclusion and diversity

## RESPECT

- ▶ We respect and support others
- ▶ We value expertise, learning and knowledge-sharing
- ▶ We foster a collaborative and developmental working environment

## VALUE FOR MONEY

- ▶ We are cost-effective and accountable for our use of resources
- ▶ We work efficiently with an entrepreneurial and commercial mind-set
- ▶ We strive for clarity, simplicity and straightforwardness

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# Chair's statement

**At the end of this year, I step down as Chair of the BSB, after six exciting, challenging, and rewarding years. There has never been a dull moment throughout my tenure, and the past year has been no exception. I am, therefore, pleased to introduce this year's Annual Report of the Bar Standards Board (BSB), albeit with a note of personal sadness as this will be the last time I do so in my capacity as Chair.**



One of the undoubted highlights of this year has been the introduction of the new BSB Handbook and revised Code of Conduct, and it is something of which I am particularly proud – both because of the hard work that went into it, and the impact it has had on the Bar and its clients. Our new Handbook focuses on the outcome a barrister should be seeking to achieve, rather than prescribing how a barrister should act in all circumstances. Superfluous rules have been stripped away and others modernised. As well as offering greater clarity there are also new measures that will empower barristers to change their business models in line with consumer need.

Our progress towards becoming a more outcomes-focused and risk-based regulator was also clearly visible this year in the introduction of a new approach to supervising chambers – one which centres on potential risks to the public, instead of scrutinising every detail of barristers' businesses. We all know that prevention is better than cure and this new approach is as much about building constructive relationships with chambers as it is about better protection for their clients. Working with us to prevent potential risks materialising will mean minimising the amount of supervision chambers receive, and a more targeted use of resources on our part.

One of the most significant changes we brought about this year – and indeed during my time as Chair – was to remove restrictions on self-employed barristers conducting litigation. Allowing barristers to apply for authorisation to conduct litigation will do much to help promote competition in the provision of one-stop advocacy and litigation services. Widening the range of choice available – for the Bar and the public too – will bring great benefits to barristers and clients alike.

I remain ever grateful for the skill, hard work and dedication of our Director, Dr Vanessa Davies, and members of staff here at the BSB. The achievements outlined in this report are the result of considerable application, ability, and aptitude on their part. The Board and I appreciate the efforts of the entire team.

I also wish to thank the members of the Board: their expertise, insight and support continue to prove invaluable. I am grateful to the members of our committees who help develop policy, ensure that decisions are made correctly and make our overall system of regulation work. Our barrister members give a significant amount of their time and they continue to do so on a *pro bono* basis, which is very much appreciated.

So, as I sign off this, my final Annual Report, and prepare to hand over to my successor I look back on my time here with a great sense of pride in what we have achieved. It has been a pleasure and a privilege to work with such a talented team of people, undertaking incredibly important work, during a time of unprecedented change for the legal services profession. Thank you for your friendship and commitment to serving the rule of law and the public interest. I shall miss you and wish you the best for the future.

A handwritten signature in black ink, which appears to read 'Ruth Deech'.

**Baroness Ruth Deech QC (Hon)**  
**Chair, Bar Standards Board**

# Director's statement



**The legal services profession is undergoing dramatic and rapid change: new ways of doing business are emerging and evolving; some areas of the market are flourishing; others are contracting and becoming less forgiving. As the regulator of the Bar in England and Wales, it is up to us to assure the public that, despite such change, the standards applied to the advocates on whom they rely are no less rigorous.**

To live up to our values – integrity, excellence, fairness, respect, and value for money – we must embody the same standards that we expect of others. In an age of austerity, when some barristers are finding the market tough, we have endeavoured over the past year to reduce our costs and make our regulatory regime more cost-effective.

We have done this through a number of major changes, both external and internal. For example, we have switched to a system of spot-checking barristers' Continuing Professional Development record cards – to focus on the minority of barristers not keeping their training up-to-date – instead of requiring all practising members of the Bar to submit their cards to us for monitoring. Internally we have restructured our teams to sharpen our focus, consolidated our office space from three floors to two to reduce our overheads, and introduced new IT systems to make our processes more efficient.

We have seen great progress in other areas as well. We have worked constructively and closely with the Council of the Inns of Court (COIC) and the Bar Tribunals and Adjudication Service (BTAS) to implement the recommendations of the Browne Report – 75 per cent of which are now complete. Our duty, first and foremost, is to protect the public, as we continue to receive and process over 300 complaints each year.

The year ahead is likely to be just as busy, bringing a number of new opportunities and challenges as we seek to implement a number of significant programmes of work. We will be developing our plans to reform the legal education and training system, following publication of the Legal Education and Training Review last year. In June 2014 we submitted our application to the Legal Services Board to become a regulator of entities so, all being well, we will soon be receiving applications from barristers who want to adopt new business models to deal with the changing market.

Finally, I would like to take this opportunity to thank all of our Board members and committees for their continued dedication and hard work and my staff team for their continued diligence and professionalism.

I wish to extend a special thank you to Baroness Deech QC (Hon), who steps down as Chair at the end of this year, for her unerring commitment and unflinching support.

A handwritten signature in black ink, appearing to read 'Vanessa Davies'.

Dr Vanessa Davies  
Director, Bar Standards Board

# What the BSB does

**We regulate barristers in England and Wales in the public interest.**

**We are responsible for:**

- ▶ Setting standards of conduct for barristers and authorising barristers to practise;
- ▶ Monitoring the service provided by barristers to assure quality;
- ▶ Setting the education and training requirements for becoming a barrister as well as setting continuing training requirements to ensure that barristers' skills are maintained throughout their careers;
- ▶ Handling complaints against barristers and taking enforcement or other action where appropriate.

# Our strategy 2013/2016

**Our vision by the end of 2016 is to become a more modern and efficient regulator, operating to externally agreed high standards, fulfilling our mission and upholding and promoting the regulatory objectives and professional principles. How we plan to achieve that vision is set out in our Strategic Plan 2013/16<sup>1</sup>, with key programmes of work and annual milestones for each of them.**

This Annual Report reflects on what we have achieved in year one of our strategy. It looks at each of our aims, explaining what we have done during the 2013/14 year and the difference it will make to the profession that we regulate and the clients they serve. We not only tell the story about what we have been doing but we also demonstrate the progress we have made against the key performance indicators and associated measures identified in our 2013/14 Business Plan<sup>2</sup>.

## Our strategic aims<sup>3</sup>

The BSB has developed five strategic aims which encompass all the work we intend to undertake over the three years from 2013 to 2016.

Our aims also reflect how we are going to improve our performance against the Regulatory Standards Framework (RSF) laid down by the Legal Services Board (LSB). That framework has four key pillars – outcomes-focused regulation; risk assessment; supervision; enforcement – and requires a regulator to demonstrate sufficient capacity and capability to regulate in those key areas.



1. Available at: [www.barstandardsboard.org.uk/media/1513219/bsb\\_strategic\\_plan\\_final\\_20.6.13.pdf](http://www.barstandardsboard.org.uk/media/1513219/bsb_strategic_plan_final_20.6.13.pdf)

2. Available at: [www.barstandardsboard.org.uk/media/1465505/bsb\\_business\\_plan\\_2013-14.pdf](http://www.barstandardsboard.org.uk/media/1465505/bsb_business_plan_2013-14.pdf)

3. Our Strategic aims – available at: [www.barstandardsboard.org.uk/about-bar-standards-board/what-we-do/our-strategic-aims/](http://www.barstandardsboard.org.uk/about-bar-standards-board/what-we-do/our-strategic-aims/)

## 2013/14 – Statistics at a glance

**15,000+**

Over 15,000 barristers were regulated by the BSB

**39**

We authorised 39 self-employed barristers to conduct litigation

**824**

We supervised 824 chambers: 465 (56%) sole practitioners and 359 (44%) multi-member chambers

**429**

We had 429 people registered as undertaking their first six months' of pupillage in 2013 (the non-practising "first six")

**445**

We had 445 registered as undertaking their second six months of pupillage (the "second six" when people are able to start appearing in court as a practising barrister)

**8,214**

We accredited 8,214 CPD courses

**12**

We oversaw 12 sites and 9 providers of the BPTC to over 1,700 students

**151**

We had 151 candidates take the Bar Transfer Test (for transferring solicitors and overseas lawyers)

**300**

We received over 300 complaints about barristers' conduct

# Achievements in 2013/14

## STRATEGIC AIM 1

**Implement our specialist regulatory regimes for advocacy services which operate in the public interest and in support of the regulatory objectives of the Legal Services Act 2007.**

The world in which we operate as the regulator of barristers is changing. The legal services market is opening up, competition is increasing and consumers are demanding more from legal service providers. We have to make sure that we are responsive to those changes by providing a regulatory structure that enables barristers to meet the changing demands of the market.

Over the course of the three years 2013 - 16 we are committed to:

- ▶ Implementing a new Code of Conduct that focuses less on rules and more on risk, in line with the LSB's regulatory standards
- ▶ Implementing a regime for the authorisation and regulation of specialist advocacy-focused entities, so that barristers can operate within different working models
- ▶ Enabling barristers to conduct litigation and widening the public's ability to contact and engage barristers directly
- ▶ Implementing a quality assurance scheme (QASA) for criminal advocates and researching the need for other quality assurance and/or accreditation schemes so that the public can have confidence in the quality of those who represent them
- ▶ Reviewing the education and training requirements for barristers to reflect the demands of the new Code of Conduct
- ▶ Modernising and simplifying our approach to handling applications for waivers from rules regarding qualification as barrister

## What we did in 2013/14

We have made significant progress on many of those objectives. Here are some of the highlights:

### Implementation of the new Handbook

The Handbook was published on 6 January 2014, with a formal launch by the then Attorney General, the Rt. Hon. Dominic Grieve QC MP and the Rt. Hon. Lord Judge PC QC, the recently retired Lord Chief Justice, at the Royal College of Surgeons on 22 January.

The new Bar Standards Board Handbook brings together all the BSB's regulations and guidance for barristers into one publication for the first time.

The Code of Conduct is incorporated into the Handbook and has been significantly revised to make it more outcomes focused, reflective of risk and clearer for everyone who may refer to it: from the profession itself to clients wishing to know what to expect of their barrister.



## IN FOCUS

### Attorney General Dominic Grieve QC MP launches the new BSB Handbook

Launching the new BSB Handbook, the Attorney General said “it will place practitioners in a much stronger position to face the future” and allow the Bar “to branch out into new fields and opportunities, which will immeasurably benefit them and their clients”.

The Attorney General praised the Handbook as an important step in establishing “clear and unambiguous rules”, which were “easily accessible both to practitioners” and the public. He reminded the audience that those who rely on legal services as clients are, at the same time, customers with “a right to expect certain standards”.

There are now ten Core Duties which build on rules that were in the previous Code. However, they now apply to all barristers, not just practising barristers (therefore unregistered barristers are required to comply with the Core Duties when providing legal services). They underpin the entire regulatory framework and set the mandatory standards that all BSB regulated persons are required to meet.

The new Handbook’s approach is less prescriptive, with more focus and guidance on what the outcome of a rule should be, rather than attempting to define how a barrister should act in every situation. We have specifically identified outcomes at the beginning of each section, which explain the reasons behind the regulatory scheme and what it is designed to achieve. The outcomes are derived from the regulatory objectives of the Legal Services Act 2007 and the risks that must be managed if they are to be achieved. These outcomes put the rules into context and, together with the Core Duties, help barristers to determine how they should act if a specific situation is not covered by the rules or it is not clear how a rule should be applied in a specific situation. The outcomes are not themselves mandatory, but the BSB will take into account whether or not an outcome has, or might have been, adversely affected when considering how to respond to alleged breaches of the Core Duties or rules.

We made sure that the profession was informed about the new Handbook and the change in approach it represents. In November 2013 we ran 12 roadshows across all six circuits giving barristers the opportunity to hear what the Handbook would mean for them and to ask questions. The roadshows were well attended, particularly in London, and we received further requests to host additional sessions. We also produced a webinar, leaflets and podcast to support the launch of the Handbook and worked with an external company to create a smartphone and tablet friendly version of the Handbook (known colloquially as the “Handbook app”).

### Entity Authorisation

The Handbook was published with strike-through text in it showing how the Handbook will address entity authorisation. Although we have not yet obtained approval from the Legal Services Board to allow us to authorise entities, the approach we will be taking is clear from the consultations we have previously undertaken and the text published in the Handbook. During this year we have been focusing on building our capacity and capability to allow us to become an entity regulator. We are on track to obtain approval from the oversight regulator and to start to authorise entities in 2014/15.



## CASE STUDY

Amanda de Winter was called to the Bar in 1998. She practises as a self-employed barrister and also runs a fixed-fee direct access business. In February 2014 Amanda became one of the first self-employed barristers to become authorised to conduct litigation. She says: "I decided that Public Access was perfect for me...I like the upfront contact with clients."

Amanda welcomed the BSB removing restrictions on junior barristers conducting Public Access and said that "The general public **do** know the difference between barristers and solicitors and they are coming to me as a barrister. It's about perceived value. The public perceive that the barrister will know a court process inside out. To go for a barrister from the start is what they want. There's a complete clarity of service."

### Conducting litigation

As a result of the new Handbook and the lifting of certain restrictions, self-employed barristers can now apply for an extension to their practising certificate to conduct litigation. This means that more barristers can offer a complete "one stop" legal service to members of the public. Since 22 January 2014 when the rules were changed to March 31, a total of 39 barristers were authorised to conduct litigation.

### Public Access

In September 2013 we introduced a new Public Access training regime designed to protect the interests of consumers and enable clients to access a broader range of Public Access barristers. We appointed the Bar Council, HJT training and Barristers Direct to deliver the training.

Public Access barristers now have up to 24 months to undertake additional top-up training or cease to conduct Public Access work. For the first time, junior barristers of fewer than three years' practising experience are able to undertake Public Access work if they complete the new training, keep a reflective log of the cases they have taken on and seek feedback from their clients. The Biennial Survey shows that almost 50 per cent of all barristers could move to Public Access by the end of 2015.

### Quality Assurance Scheme for Advocates (QASA)

QASA is a joint scheme that has been developed by the BSB, the Solicitors Regulation Authority and ILEX Professional Standards. The Scheme will regulate the quality of all advocates appearing in the criminal courts in England and Wales, whether they are barristers, solicitors, or legal executives. The Scheme will apply to all advocates, whether they are self-employed or employed, and whether they are acting for the prosecution or defence.

The Scheme is designed to systematically assess and assure the quality of criminal advocacy in the courts in England and Wales and will ensure that the performance of all advocates is measured against the same set of standards, regardless of an advocate's previous education and training.

The scheme was approved by the Legal Services Board in July 2013. Shortly after this, we published the QASA Handbook and a range of resources setting out everything criminal advocates need to know about the Scheme. Before implementation commenced we were served with an application for Judicial Review as an interested party. The Defendant is the Legal Services Board. We decided to suspend the phasing of QASA registration pending the outcome but all barristers who wish to undertake criminal advocacy are still required to register by 31 December 2014. At the time of writing, the Judicial Review proceedings were still ongoing. Progress with the scheme will be reported in the next financial year.

### Waivers system review

The Qualifications Committee has reviewed its systems and decided that a greater proportion of the applications made to it could be determined by staff. The Committee has so far approved the proposals of four of its six Panels on the extent of the decision-making powers that will be delegated to staff.

### Review of the Legal Services Act 2007

On 17 September 2014 we published our response to the Ministry of Justice's call for evidence for its review of regulation of legal services in England and Wales. The government has since decided not to pursue any changes to the statutory framework or to extend the scope of regulation to new areas. We will continue to reform our regulatory regime to be more flexible and innovative, while ensuring that the public is properly protected.

## Measuring our performance

When we set our objectives for the three year period 2013/16, we also identified what success would look like. This table reflects on progress made in year one.

What success will look like by 2016	Progress made against measure in 2013/14
<b>a) We will be a licensing authority under the Legal Services Act 2007</b>	We are on track with this aim. We will apply to the Legal Services Board (LSB) to be approved as a regulator of Alternative Business Structure (ABS) entities in 2014/15.
<b>b) We will be regulating barrister-led / advocacy focused entities</b>	We delayed the timing of entity regulation so that we could properly implement the Handbook. We are on track with this aim under that revised timeframe, which is later than originally shown in our strategic plan.
<b>c) In a timely and financially sustainable way (both to regulator and regulated)</b>	We are developing a financial model for entity regulation to recover costs of the ongoing operation of the entity regime. We aim to be cost neutral from the practising certificate fee once the regime is up and running.
<b>We spent £506k on Strategic Aim 1 (10% of total BSB direct spend)</b>	

## STRATEGIC AIM 2

### Promote greater public and professional understanding of and support for our role and mission.

Understanding and awareness of what we do and why we do it is crucial if we are to be effective. We know from the Biennial Survey that there is scope to improve understanding of our role amongst the profession. Judging from feedback and media coverage, we also think that we could improve the information we provide so members of the public are able easily to find out where to go when things go wrong.

We are committed to addressing this through a number of activities, including:

- ▶ Engaging proactively with the legal education community to ensure that the role of the regulator is understood
- ▶ Consulting widely on all policy developments and ensuring that the views of consumers of legal services are reflected
- ▶ Publishing a consumer-friendly version of the new Handbook
- ▶ Engaging with consumer groups and members of the regulated community to understand the impact of QASA
- ▶ Enhancing the facility for those affected by our enforcement regime to provide feedback
- ▶ Expanding as far as possible the information we make available publicly about our disciplinary processes
- ▶ Enhancing our investment in stakeholder engagement
- ▶ Making better use of new technology in support of our communications programmes
- ▶ Developing our FOI capacity

### What we did in 2013/14

#### Raising our profile and engaging with our stakeholders

This financial year we have used our communications strategy to raise our profile and engage with our stakeholders in a variety of ways: in the media, at conferences, online, and through research and information.

#### Media coverage

We have significantly enhanced our public profile with increased coverage in the national media and trade press. We now systematically publicise the outcome of disciplinary tribunals where the barrister is disbarred from the profession and attract considerable media attention as a result. Other major stories during the year were: publication of the new Handbook, QASA, and changes to legal aid and the impact on our regulatory objectives.

#### Conferences

BSB Director Dr Vanessa Davies gave a speech at the Institute of Barristers' Clerks conference in June 2013 which was attended by 175 delegates. Ewen Macleod, Head of what was then known as Professional Practice (and has since become Regulatory Policy), ran a workshop entitled *Regulatory changes and new opportunities: what the new BSB Handbook will mean for barristers and clerks*. Dr Davies also spoke at the Young Bar Conference in October and in November 2013 we ran a workshop at The Bar Conference entitled *The new Bar Standards Board Handbook and risk-assessed monitoring*.

#### Online presence

During 2013/14 we improved our online presence: we had 527,994 visits to our website and the number of Twitter followers rose from just over 5,000 to almost 8,000.

## Research

To further engage with our stakeholders we conducted a number of surveys including the BPTC perceptions survey, the pupillage registration survey, a Bar Course Aptitude Test reasonable adjustments follow-up survey, and an entity regulation survey. We also ran the Biennial Survey which targets almost half of the practising Bar every other year. In 2013 almost 3,300 barristers participated in the survey – a response rate of 44 per cent. Publication of the survey was delayed and it was published in the first quarter of 2014/15. The figures show that understanding of our role is lower than we would like it to be: in 2013 just over a third of respondents (35%) felt they had a good understanding of the BSB's role, a quarter felt they did not, and a third (33%) were neutral on the issue.

## Information for consumers

We also made progress on our commitment to publishing more consumer-friendly information. In January 2014 we updated all of our enforcement / professional conduct leaflets and guidance to align with the new Handbook and to make them more user-friendly. These included our *How to make a complaint about a barrister* leaflet, our *Information for barristers facing a complaint* leaflet, our *Information on disciplinary tribunals* leaflet and our *Administrative sanctions: imposing warnings and fines* leaflet. We have made constant revisions to our website to make information clearer for anyone wanting to find out about how to complain about a barrister.

## Engaging with consumer organisations

Establishing relationships with intermediary groups that represent legal consumers was identified as a priority for 2013/14. This is an area that was highlighted by the LSB report *Developing Regulatory Standards* which made clear that the BSB needs to do more to understand the needs of the legal consumer.

During this year we started a programme of work to identify relevant organisations, establish contact, begin to build relationships, and facilitate dialogue and joint working. The overall aim of the programme is to increase understanding of what we do amongst legal consumer organisations, develop our understanding of the legal consumer perspective, and identify areas of common interest and potential collaboration.

Our initial conversations show that awareness of what we do was relatively low but there was considerable interest in engaging with us. A number of issues of common concern were identified and a series of meetings to discuss those issues is now in train. So far, we have held a seminar about the Quality Assurance Scheme for Advocates (QASA). We also explored the issue of vulnerable witnesses, and, as a result, we will be working with Victim Support during 2014/15 to identify how we might work together to address some of the concerns in this area.

We held another event focusing on increasing understanding of how the complaints system works and looking at what could be done to make it more accessible. A representative from the Legal Ombudsman also took part. We will be using the feedback from the day to help shape our plans in this area. Topics for future discussion include: Litigants in Person and the production of more consumer-friendly information.



### **Adam Pemberton, Assistant Chief Executive of Victim Support said:**

"We know that, in particular, vulnerable witnesses can be left feeling traumatised by their experience of cross examination. We hope that by working closely with the Bar Standards Board we can put an end to this; and ensure all victims and witnesses are treated with respect and dignity when they take the stand. Through the consumer engagement programme, we have begun to explore the practical solutions to the issues victims and witnesses face while taking the stand in court."



**Nick Gallagher, Interim Chief Executive of the Bar Pro Bono Unit said:**

“It was hugely helpful to be able to come together with so many colleagues from the advice and regulatory sectors to look at our common landscape. To be able to map where our various responsibilities lay was invaluable. The fact that the discussion was grounded in the needs of clients and barristers only added to the strength of the discussions. It was also fascinating to hear more about the BSB’s new approach to regulation and to understand how the Code of Conduct and the BSB’s supporting structures had evolved from that approach.”

## Measuring our performance

When we set our objectives for the three year period 2013/16, we also identified what success would look like. This table reflects on progress made in year one.

What success will look like by 2016	Progress made against measure in 2013/14
<p><b>a) An increased percentage of the profession will have a positive view of the role and effectiveness of the BSB</b></p>	<p>We established a baseline through the 2013 Biennial Survey. We will track progress against the baseline during the life of this strategic plan.</p>
<p><b>b) We will have established collaborative relationships with the public and consumers through our user network</b></p>	<p>During the course of 2013/14 we have established relationships with a number of legal consumer organisations and are beginning to explore issues of common concern (see in focus above).</p>
<p><b>We spent £338k on Strategic Aim 2 (7% of total BSB direct spend)</b></p>	

## STRATEGIC AIM 3

### Set and maintain high standards of entry to and practice in a diverse profession.

High standards of advocacy are crucial to the maintenance of the rule of law and promoting and protecting access to justice. Our role as the regulator is to ensure that those high standards are maintained by setting entry and training requirements, and monitoring standards of practice during the course of a barrister's career. We are committed to taking action in a number of areas, including:

- ▶ Revising the Bar Training Regulations in accordance with the Regulatory Standards Framework
- ▶ Implementing recommendations from the Legal Education and Training Review (LETR)
- ▶ Evaluating the operation of the Bar Course Aptitude Test and continuing to quality assure the Bar Professional Training Course (BPTC)
- ▶ Developing a new Continuing Professional Development regime
- ▶ Implementing and reviewing the new Code of Conduct (BSB Handbook)
- ▶ Developing and implementing appropriate standards for barristers working in immigration
- ▶ Streamlining our authorisation processes including devolving some first-line decision making to staff
- ▶ Establishing systems to enable applications from entities to be considered and assessed
- ▶ Developing a more evidence- and risk-based approach to monitoring of supervision
- ▶ Developing standards of good practice in the Youth Courts
- ▶ Monitoring compliance with Equality and Diversity rules
- ▶ Continuing to deal with complaints against barristers who have not met the required standards and ensuring appropriate action is taken

### What we did in 2013/14

#### Legal Education and Training Review (LETR)

We have been actively engaged with the independent review of legal education and training. The LETR report was commissioned by the Solicitors Regulation Authority (SRA), ILEX Professional Standards and the BSB: the most significant cross-sector review in recent times. Amongst its 26 recommendations, the report identified a number of systemic challenges both for regulators, and for others involved in the education and training of legal professionals. Whilst the report draws a general conclusion that the existing framework meets current needs for competent practice, it points to significant change in the market for legal services that must find appropriate response in the training of future barristers, solicitors and legal executives.

In September 2013 we published our response<sup>4</sup>, setting out a framework for addressing the priorities that emerged from this important re-assessment of training pathways across the legal sector. Significant change has already been brought into effect. In 2012, centralised assessments for the Bar Professional Training Course (BPTC) were introduced. In 2013, we established a test to ensure that those embarking on the training had the aptitude to complete it successfully. In March 2014 we established a plan to implement the recommendations of LETR. It details how we will ensure that future training requirements:

- ▶ prepare trainees for competent practice at the outset of their career;
- ▶ promote innovation in teaching and learning;
- ▶ offer flexibility in the pathways to qualification for the Bar or elsewhere;

4. Bar Standards Board responds to the Legal Education & Training Review – available at: [www.barstandardsboard.org.uk/media-centre/press-releases-and-news/bar-standards-board-responds-to-the-legal-education-training-review/](http://www.barstandardsboard.org.uk/media-centre/press-releases-and-news/bar-standards-board-responds-to-the-legal-education-training-review/)

- ▶ minimise barriers to access to the profession, and
- ▶ ensure ongoing competence throughout a practitioner's career.

The revision of the Bar Training Regulations will be included in this programme of work.

### **Joint Academic Stage Board disbanded**

Following consultation between the SRA and the BSB, we have agreed a new approach to assuring Qualifying Law Degrees (QLD) and the Common Professional Examination/Graduate Diploma in Law (CPE/GDL). These changes took effect from 1 January 2014.

The Joint Academic Stage Board (JASB), which has acted in this regard on behalf of the regulatory bodies for a number of years, was dissolved with effect from 31 December 2013.

The joint remit of the SRA and the BSB remains in force, and our joint requirements for QLDs and the CPE/GDL remain as stated in the Joint Statement on completion of the academic stage of training. The Joint Statement remains in place.

We are now operating a new approach which is based on two basic principles:

- ▶ to remove the duplication of our oversight of academic standards and quality with that of the Quality Assurance Agency for Higher Education (QAA), and, instead, to rely on the required compliance of Higher Education Institutions with QAA's Quality Code for Higher Education, and the outcomes of the QAA review. The QAA framework constitutes a robust academic and educational regime.
- ▶ to continue to monitor and ensure compliance with the Joint Statement.

### **Bar Course Aptitude Test and the Bar Professional Training Course**

The new Bar Course Aptitude Test (BCAT) was introduced in April 2013 following extensive consultation with stakeholders. The test was put in place to assess students' critical thinking and reasoning, the core skills required for the BPTC. The aim of the test is to ensure that those undertaking the BPTC have the required skills to succeed. We commissioned an evaluation of the test after the first cycle and will continue to monitor the impact and efficacy of the test over the first three years of its operation.

We also undertook a financial review of the BPTC in 2013, to establish the full cost of delivery and then revise fees accordingly. As a consequence, providers have been notified of a rise in candidate fees from £400 to £475, to take effect in September 2014.

### **Continuing Professional Development (CPD)**

A CPD Steering Group was commissioned in 2011 to review the Bar's CPD scheme on behalf of the Bar Standards Board. The CPD Steering Group concluded its work in 2013, after it reported to the Board with its final recommendations for improvement. An outline proposal for a new CPD system, which focuses on the outcomes of CPD, was approved by the Board at its July 2013 meeting.

Further work was then undertaken to develop a robust CPD system with which the profession can engage. The full proposal will be presented to the Board in the 2014/15 year and consultation with the profession, and all other key stakeholders, will also occur in the 2014/15 financial year.

In the meantime, we made changes to the way in which barristers demonstrate their compliance with the existing CPD requirements. In line with the new risk-based approach to regulation, supervision of CPD compliance has also changed. We no longer require all practising barristers to return their CPD Record Card but can ask them to provide their Card on request instead. We commenced a programme of spot checking

a random sample of Record Cards, with those with a history of non-compliance also being targeted. The results of that spot checking process will be reported in 2014/15.

### **Standards for barristers working in immigration**

In July 2013 we responded to the LSB's consultation on the regulation of immigration advice and services. In order to do so we undertook a year-long review into whether the current regulatory arrangements provide sufficient protection to consumers of immigration advice and services. We gathered evidence from a range of sources, including a roundtable event with immigration practitioners, other regulators and representative bodies; spot-checks on continuing professional development data; and data gathered from chambers monitoring. Importantly, we also undertook some independent consumer research. The research – undertaken by IFF research - explored clients' experiences of immigration advice and services. After considering all of the evidence we concluded that it was not necessary to amend our regulatory arrangements.

We will continue to monitor this area and conduct a further review in 2015. The introduction of the new BSB Handbook and on-going information gathering through new risk assessment and supervision regimes will enable us continually to assess whether there is sufficient protection for consumers of immigration advice and services.

### **Consideration of changes to our regulatory arrangements for special bodies in the light of LSB guidance**

The Legal Services Board (LSB) has put on hold changes to the licensing of special bodies as alternative business structures (ABSs). This means that not-for-profit organisations such as law centres and Citizens' Advice Bureaux will be able to continue to provide reserved legal services without needing to become licensed as an ABS. This has been achieved by extending the transitional protection given by section 23 of the Legal Services Act 2007 (LSA) (meaning that licences are not required by special bodies in order to provide reserved legal activities) for the time being. The LSB has indicated that they will keep the situation under review, but that they do not at this time envisage any further developments before 2015.

### **Our Enforcement Strategy and risk-based decision making**

The BSB's commitment to taking a risk-based approach to regulation has led to a significant change in our approach to enforcement action. An Enforcement Strategy<sup>5</sup> was developed and published alongside the BSB Handbook in January 2014.

One of the hallmarks of the new strategy is that enforcement action should be proportionate and focus on the conduct issues that pose the greatest risk. In January 2014 we introduced a system for risk assessing complaints prior to deciding what action to take. This allows us to allocate a risk level to a complaint which informs the decisions on what action, if any, to take. High risk conduct will normally result in disciplinary action whereas conduct which represents a medium risk is likely to result in the imposition of an administrative sanction. Where the risk is low, we may decide not to take any action but will consider other options, such as a referral for supervision or referral to the barrister's chambers to address the concerns raised.

The change in approach to enforcement action has been accompanied by increased decision-making at an executive level. This has created better balance in the system, allowing the Professional Conduct Committee to concentrate on considering the more serious cases. The Committee retains oversight of the executive decisions via a sub-committee. To date the sub-committee has concluded that all reviewed decisions have been reasonable and taken in accordance with the rules and the agreed procedures.

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5. Available at: [www.barstandardsboard.org.uk/media/1555518/the\\_enforcement\\_strategy\\_2014\\_-\\_final.pdf](http://www.barstandardsboard.org.uk/media/1555518/the_enforcement_strategy_2014_-_final.pdf)

## Development and operation of risk-based supervision

One of the central strands of our strategic plan and the Legal Services Board's Regulatory Standards Framework was the need for the development of a new risk-based supervision approach. The BSB is working hard to be more evidence- and risk-based in all that we do. A new risk-based approach to supervision is essential to these efforts. We undertook consultation and development throughout 2013 and the new Supervision Team started to apply risk-based supervision in January 2014.

The changes in our approach were needed to support the new BSB Handbook (which came into force on 6 January 2014). Our published Supervision Strategy describes the approach in more detail<sup>6</sup>. It is aimed at:

- ▶ Enabling the BSB to be proactive in identifying potential risks – like breaches of confidentiality or poor keeping of financial records - and take action to stop these from becoming real;
- ▶ Encouraging chambers and entities to manage these risks effectively and so improve how they comply with their regulatory requirements;
- ▶ Preventing potential risks from negatively affecting clients and consumers, as well as the regulatory objectives set out in the Legal Services Act 2007;
- ▶ Creating a new way of stopping breaches of the regulatory rules from recurring;
- ▶ Helping the BSB target its resources at those chambers, entities, individuals and, if need be, areas of work that require more supervisory attention; and
- ▶ Fostering a more positive and constructive relationship between the regulator and those it regulates.

This new, more proportionate, approach to regulatory compliance will allow us to target our resources where they are needed most and reserve enforcement action for the most serious and persistent cases of non-compliance.



### CASE STUDY

#### Equality and Diversity Monitoring

In 2013 the Equality and Diversity and Supervision Teams looked at how well a sample of 32 chambers were implementing the new Equality and Diversity rules<sup>7</sup>. The exercise revealed that 16 chambers needed to take action to improve the level of compliance with the rules. Each set was given a period of time to make the necessary changes.

All chambers identified as requiring improvement were subsequently able to demonstrate that the issues identified had been addressed and that measures were in place to prevent any recurrence. Feedback from the chambers involved was positive and improvements in compliance were achieved without any enforcement action being taken.

6. Available at: [www.barstandardsboard.org.uk/regulatory-requirements/for-chambers-and-education-providers/chambers/supervision/](http://www.barstandardsboard.org.uk/regulatory-requirements/for-chambers-and-education-providers/chambers/supervision/)

7. Available at: [www.barstandardsboard.org.uk/about-bar-standards-board/equality-and-diversity/equality-and-diversity-rules-of-the-code-of-conduct/](http://www.barstandardsboard.org.uk/about-bar-standards-board/equality-and-diversity/equality-and-diversity-rules-of-the-code-of-conduct/)

## Complaints handling performance

We make sure that we deal effectively with complaints against barristers who have not met the requirements and take appropriate action through our Professional Conduct Department (PCD) and Professional Conduct Committee.

The PCD works under the authority of the Professional Conduct Committee and in accordance with the processes set out in the BSB Handbook and the Code of Conduct eighth Edition. They have a range of enforcement tools at their disposal from giving formal advice to referring cases of alleged professional misconduct to independent Disciplinary Tribunals. The annual performance statistics are shown in Annex 1.

## Quality checks of the complaints system

The BSB's Independent Observer, Isobel Leaviss, provides independent assurance to the Board that the BSB's enforcement system is operating in line with its aims and objectives. In her latest report, covering the period June 2013 – October 2013, the Independent Observer noted that she has "continued to observe good administrative standards by PCD case officers". Praising the well-organised case files, she observed that staff display "a demonstrable commitment to fairness when responding to challenges from complainants and/or barristers".

## Measuring our performance

When we set our objectives for the 3 year period 2013/16, we also identified what success would look like. This table reflects on progress made in year one.

What success will look like by 2016	Progress made against measure in 2013/14
<b>a) We will be supervising and enforcing on the basis of a new Code of Conduct/Handbook</b>	The new Handbook was launched on 6 January 2014.
<b>b) The regulated community, including education and training providers, will be achieving high levels of compliance, and delivering quality services to the public</b>	We have introduced more effective reporting and quality assurance systems for Education Providers eg annual reflective review for Bar Professional Training Course providers first implemented in December 2013.
<b>c) We will have more complete information on the diverse make-up of the regulated community</b>	The 2013 Bar Barometer gives the most up to date diversity disclosure rates across the various protected characteristics. There was an increase in all areas when compared with the data we extracted from our internal database in 2012. We have good levels of data on gender (98.6%), race (89.5%) and age (78.2%). There are low levels of data (around 12%) in all other areas (gender reassignment, marriage and civil partnership, pregnancy and maternity, religion and belief, sex and sexual orientation). We have put measures in place to try and improve these figures again in 2014.
<b>We spent £3,028k on Strategic Aim 3 (61% of total BSB direct spend)</b>	

## STRATEGIC AIM 4

### Become more evidence- and risk-based in all we do in the context of a globalised legal services market.

The LSB framework for regulatory standards requires us to identify risk and use evidence as the basis for our regulatory decisions. Becoming more risk- and evidence-based is therefore a priority for the BSB and is a theme that runs through all of our objectives. It also requires us to establish systems to enable us to gather evidence and assess risk. We are therefore committed to:

- ▶ Developing a whole organisation knowledge management system, based on an intranet and document management system
- ▶ Developing and implementing a centralised research and evidence gathering capacity so that we can better assess risk
- ▶ Designing and implementing systems for gathering regulatory intelligence

### What we did in 2013/14

#### IT systems in place

The BSB has made some progress in this area. In August 2013 the enforcement database was successfully established and a risk/supervision database is in progress. However, we are still working on ensuring that we have the most effective systems in place that we can in order to ensure data can be appropriately shared between these systems. The recruitment and focus on specialist skills to assure these links has been initiated and a further review of IT strategy was reported to the Board in March 2014.

Our new internal document management system was rolled out between September and December 2013. This was prioritised over the intranet in order to support the changes in the use of our office premises (see the SPACE programme description below). Our new intranet will be introduced in the next business year.

#### Risk Assessment Framework

In December 2013 our risk assessment framework was established. The Board agreed the framework at its meeting in October 2013, as well as an initial set of regulatory risks. Delays in recruitment of key staff have meant that we have not yet put in place all of the operational aspects of the scheme: this will be progressed during 2014/15. Staff in key roles have been trained so they can make decisions based on risk (eg supervision and enforcement).

#### Establishing an evidence base

Creating a comprehensive evidence base that enables us to share information about our regulatory impact is an important underpinning aspect for all of our work. The first step is to properly understand the information we currently hold to ensure we are using existing systems and data as effectively as we can. Work to assess the usability of existing evidence and then develop a research programme to enhance it has begun and will be completed in 2014/15. Developments will be reported to the Board during the two remaining years of this strategic plan.

#### Policy development framework

Development work has been undertaken on the new policy development framework during 2013/14. The framework is intended to introduce a more systematic way of undertaking policy development across all parts of the BSB. The framework will be presented to the Board for its consideration in 2014/15 and then implemented in that year.

## Measuring our performance

What success will look like by 2016	Progress made against measure in 2013/14
<p><b>a) We will have established systems, including research programmes, for collecting and managing information and evidence to support regulatory policy and decision making</b></p>	<p>Our risk assessment framework has been established. The first draft was approved by the Board. This work is ongoing. The risk-based approach is operational in the Professional Conduct Department and Supervision Department. The draft research strategy will be presented to our senior management team early in 2014/15 and then to the Board.</p>
<p><b>b) We will have attained a “satisfactory” rating against the LSB’s standards framework in this area</b></p>	<p>Good progress has been made towards the first goal of achieving (“undertaking improvement and work is well underway”), as outlined by the LSB in its framework. The Regulatory Improvement Programme was completed in June 2014 embedding the Regulatory Standards Framework throughout the organisation. Action plans are in place to ensure all necessary development work is undertaken to achieve the desired rating of satisfactory by 2016 achieving the second level of the framework (“undertaking improvement and work is well underway”).</p>
<p><b>We spent £502k on Strategic Aim 4 (10% of total BSB direct spend)</b></p>	

## STRATEGIC AIM 5

### Strive for “best practice” as an organisation for those whom we serve and those who work for us.

In order to deliver on our strategy and meet our obligations as a regulator, we need people who are equipped to do the job, processes that are efficient and effective, and sufficient resources to support the implementation of our work programme. We are therefore committed to:

- ▶ Ensuring the independent Bar Tribunals and Adjudication Service is operating fairly, transparently and efficiently
- ▶ Developing capacity and processes for intelligent client procurement and performance monitoring
- ▶ Reviewing our business processes and simplifying our work where possible
- ▶ Improving our IT infrastructure
- ▶ Developing a strategic approach to raising revenue
- ▶ Moving to full cost recovery charging regimes where appropriate
- ▶ Completing our internal change programme to achieve satisfactory ratings under the Regulatory Standards Framework
- ▶ Delivering our HR strategy by investing in training for staff and introducing a competence framework and revised appraisal system
- ▶ Managing a transition to a new Chair of the Board in 2015
- ▶ Reviewing the governance structure and enhancing the policy-making role of the Board

### What we did in 2013/14

#### TRIP – The Regulatory Improvement Programme

Many of the aspects of the activities required to achieve Strategic Aim 5 were brought together within an internal change programme: The Regulatory Improvement Programme or TRIP. This programme was also required to make the changes necessary to improve our ratings against the Legal Services Board’s Regulatory Standards Framework. The programme was formally established just before this reporting year commenced but became operational during 2013/14. In July 2013 the staff skills audit and internal process mapping exercises were completed. In October 2013 a Learning and Development plan was produced for staff and introduced. In December 2013 we effected an organisational restructure and new ways of working were put in place. In March 2014 a new competency framework and revised appraisal process were introduced. In June 2014 our Change Programme Manager will leave the BSB and the senior management team will be responsible for embedding the change programme in the organisation through to 2016.

#### SPACE

In 2013 the Bar Council’s Finance Committee was presented with a lease-break opportunity, which led to careful consideration of the Bar Council’s accommodation needs. After reviewing the options available, the decision was taken to compress from seven to four floors, and make better use of the lower ground and mezzanine floors. A Space Planning and Creating Efficiencies (SPACE) Programme was established to facilitate this initiative, which ran from April 2013 to March 2014. Construction began in September 2013 and finished on time and within budget. The release of the additional floors back to the landlord and the subsequent reduction in rent has had a positive financial impact on the Bar Council’s budget.

The re-organising of the layout of the office space and the relocation of staff provided an opportunity to increase efficiencies within the BSB by ensuring that, through smart space planning, departments that worked closely together were co-located. It has also encouraged a shift towards more electronic storage which has also improved productivity.

The SPACE programme was received positively by staff. A survey in January 2014 showed an increase in staff feeling positive or very positive about the programme and the planned moves.

### Contract management system reviewed

In October 2013 the new Bar Tribunal and Adjudication Service (BTAS) contract was implemented. This was the culmination of considerable effort on the part of both the BSB and the Council of the Inns of Court following the Disciplinary Tribunals and Hearings Review Group Report that was published in 2012. This is a significant step forward in having tribunals operating to the high standard we expect, reflecting the quality of the decisions they have always made. We published an update on progress against all of the recommendations contained in that report<sup>8</sup>.

Internally we have also introduced tighter systems regarding our management of contracts. In the coming year we will review our internal service level agreements regarding the support we receive from the Central Services function.

### Fees and charges review

In July 2013 the new fees and charges policy statement was approved by the Board. This is another step towards having a high level of openness and transparency for those whom we charge when we provide a service to them. The next year will see us review all fees and charges, moving to full cost recovery or being able to clearly explain where we have not and why.

## Measuring our performance

What success will look like by 2016	Progress made against measure in 2013/14
<b>a) We will have established a baseline for regulatory costs and steadied the rate of increase compared to the previous three years</b>	The aim to establish a baseline for regulatory costs and steadying the rate of increase of the cost of regulation has been achieved in 2013/14 through the regulatory improvement programme and other initiatives. The extent to which regulation is needed will be indicated by supervision activities, which in turn will impact on the resourcing and cost of regulation, all of which are key activities for the 2014/15 year.
<b>b) We will have improved turn-around times in relation to case handling in complaints and qualifications / waivers</b>	In terms of qualifications and waivers, delegations to staff have been agreed and we are now implementing them, with new service level standards being agreed.
<b>c) The organisation will have a different, improved "feel" for users and staff</b>	Responses to the 2013 staff survey revealed improvements across several categories including: pay and reward; training and development; wellbeing, and comments about leadership. A further survey will be carried out in 2014.
<b>We spent £558k on Strategic Aim 5 (11% of total BSB direct spend)</b>	

8. Available at: [www.barstandardsboard.org.uk/media-centre/press-releases-and-news/coic-recommendations-update-february-2014/](http://www.barstandardsboard.org.uk/media-centre/press-releases-and-news/coic-recommendations-update-february-2014/)

# Equality update

**The BSB is committed to encouraging an independent, strong, diverse and effective legal profession. It is important that the composition of the Bar reflects the community it serves and that the public has confidence in the legal system and the role of barristers within it.**

We are committed to improving diversity - both externally in the profession and internally within the organisation – and to ensuring that equality is taken into account in everything we do. We have a legal duty to pay due regard to the need to:

- ▶ eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
- ▶ advance equality of opportunity between people who share a protected characteristic and those who do not; and
- ▶ foster good relations between people who share a protected characteristic and those who do not. The protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, sex, sexual orientation, religion or belief and marriage and civil partnership.

During 2013/14 we took action in a number of areas in order to meet that duty, including:

- ▶ diversity monitoring of the profession, BSB staff, the BSB Board and its committees;
- ▶ conducting a diversity review of the complaints process and implementing its recommendations
- ▶ equality analysis on all major BSB projects and activities e.g. the new BSB Handbook, the new supervision regime, the Bar Course Aptitude Test;
- ▶ designing a new online diversity training package for Board and Committee members that will be introduced later in 2014;
- ▶ reviewing and republishing the BSB's organisational equality objectives in May 2013 and identifying a number of new priority work areas;
- ▶ compliance monitoring of the implementation of the Equality and Diversity Handbook rules in chambers via a set of progress checks and a compliance exercise; and
- ▶ publication of a range of equality information, including an aggregated diversity data report on the profession; and
- ▶ development of a range of support materials and products for the profession implementing the equality rules.

For more information on equality and diversity see the latest Bar Barometer<sup>9</sup> and Biennial Survey<sup>10</sup> as well as the equality and diversity webpages<sup>11</sup> on the BSB website.

9. Available at: [www.barstandardsboard.org.uk/media/1599997/bsb\\_barometer\\_report\\_112pp\\_june\\_13.pdf](http://www.barstandardsboard.org.uk/media/1599997/bsb_barometer_report_112pp_june_13.pdf)

10. Available at: [www.barstandardsboard.org.uk/media/1597662/biennial\\_survey\\_report\\_2013.pdf](http://www.barstandardsboard.org.uk/media/1597662/biennial_survey_report_2013.pdf)

11. Equality and diversity – available at: [www.barstandardsboard.org.uk/about-bar-standards-board/equality-and-diversity/](http://www.barstandardsboard.org.uk/about-bar-standards-board/equality-and-diversity/)

## Governance

The Board is responsible for shaping the BSB's strategy; it has ultimate responsibility for what the BSB does and for carrying out all regulatory functions of the Bar Council.

In 2013/14 our Board consisted of 15 people, a combination of lay members and barristers. The Board met 13 times during the year: there were 11 ordinary meetings (agendas and minutes are published on the BSB's website<sup>12</sup>), and two Away Days.

**Chair:** Baroness Deech QC (Hon)

**Vice-Chair:** Ms Patricia Robertson QC

### **Barrister Members:**

Ms Sarah Clarke

Ms Justine Davidge

Mr Simon Lofthouse QC

Mr Matthew Nicklin QC – term ended December 2013; position currently vacant

Mr Sam Stein QC

### **Lay Members:**

Ms Rolande Anderson

Mr Rob Behrens

Dr Malcolm Cohen

Ms Paula Diggle – term ended December 2013; position currently vacant

Mr Tim Robinson

Professor Andrew Sanders

Mr Richard Thompson

Dr Anne Wright

### **Special Advisors to the Board (with no voting powers)**

Ms Sarah Brown

Mr Matthew Nicklin QC (from January 2014)

Ms Emily Windsor

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12. Board meetings 2013 – available at: [www.barstandardsboard.org.uk/about-bar-standards-board/how-we-do-it/our-board/board-meetings-2014/board-meeting-2013/](http://www.barstandardsboard.org.uk/about-bar-standards-board/how-we-do-it/our-board/board-meetings-2014/board-meeting-2013/)

## Our committees

Our Board runs its work through eight committees:

- ▶ Education and Training Committee
- ▶ Equality and Diversity Committee
- ▶ Governance, Risk & Audit Committee (GRA)
- ▶ Planning, Resources & Performance Committee (PRP)
- ▶ Professional Conduct Committee
- ▶ Qualifications Committee
- ▶ Standards Committee
- ▶ Supervision Committee (superseded the Quality Assurance Committee)

**The Education and Training Committee** is responsible for setting the standards of education and training that people must reach before being able to practise as barristers, together with the further training requirements that barristers must comply with throughout their careers.

**The Equality and Diversity Committee** is responsible for ensuring that the BSB's functions have given due consideration to eliminating discrimination and promoting equality.

**The Governance, Risk and Audit Committee** is responsible for ensuring the Board's corporate governance standards and internal controls are maintained. The Committee keeps under review and advises the Board on all matters relating to the internal risk management framework and the BSB's internal assurance programme. The Committee also reviews reports from the Independent Observer.

**The Planning Resources and Performance Committee** supports the work relating to the development of strategic direction and plans for the BSB. It oversees financial performance against objectives and targets and considers whether proposed funding is adequate and effectively allocated across the business. The Committee also advises on how the BSB monitors, measures and reports performance to best effect, with appropriate transparency and in a timely and consistent manner.

**The Professional Conduct Committee** is responsible for investigating complaints and taking enforcement action against barristers who have breached the Code of Conduct within the BSB Handbook.

**The Qualifications Committee** is responsible for looking at individual applications from people wishing to become barristers but who may be exempted from the normal training requirements.

**The Standards Committee** is responsible for the BSB Handbook, with which all barristers must comply, and for issuing guidance on good practice.

**The Supervision Committee** is responsible for considering policy on matters relating to supervision of barristers, chambers and entities. The Supervision Committee formally superseded the Quality Assurance Committee on 6 January 2014.

# Accountability

## **The BSB is the independent regulatory arm of the Bar Council and is responsible for the regulation of barristers in England and Wales, in the public interest.**

The BSB's systems of internal control complement the Bar Council's own systems and processes. The Bar Council's Finance and Audit committees play a light-touch oversight role to ensure the BSB is effectively discharging its duties. The Bar Council and the BSB comply with the annual Internal Governance Rule certification process, confirming our regulatory independence to our oversight regulator, the Legal Services Board; this year was no exception. As a result of the most recent internal governance rules review, the Bar Council and the BSB have strengthened their independent relationship by implementing a joint protocol to maintain regulatory independence through their working arrangements<sup>13</sup>. The BSB independently controls its resources, and these operations are monitored by the PRP Committee, which met four times during the year 2013/14.

The BSB ensures that its governance standards and internal controls are fit for purpose via the Governance, Risk and Audit (GRA) Committee which met four times during 2013/14. The BSB has its own constitution and standing orders: the latter have undergone minor amendments to support the implementation of the new BSB Handbook. In 2013/14 the Board approved updated policies on gifts and hospitality, and the declaration of interests. It also launched a new Governance Manual and scheme of delegations, which details governance and decision-making roles and responsibilities<sup>14</sup>.

The GRA Committee is also responsible on behalf of the Board for reviewing the corporate risk management framework of the BSB. The Director and senior managers are responsible for the areas of risk that relate to their departments. The corporate risk register is reviewed at least quarterly by the BSB's Senior Management Team, GRA Committee and the Board as set out in the Risk Management policy. The GRA Committee also conducts in-depth risk reviews at each ordinary meeting.

The GRA Committee oversaw a review of the risk management framework and it noted that the current risk management Policy, tools and reporting mechanisms had been well-accepted by management since their launch in 2011. Recommendations from the review are being actioned and these aim to develop a more mature model for the GRA Committee to give greater assurance to the Board.

The BSB's GRA Committee has an active relationship with the Bar Council's Audit Committee. For example the Chair of the GRA Committee sits on the Bar Council's Audit Committee, the Chair of the latter has attended a GRA Committee meeting, and urgent or cross-cutting issues have been escalated between the committees. During 2013/14 the GRA Committee reviewed a number of changes to the Bar Council's internal financial controls and made some recommendations on two shared policies relating to whistleblowing and fraud.

The BSB's lay Independent Observer provides independent assurance that the BSB's enforcement system is operating in line with its aims and objectives; as mentioned earlier, currently Isobel Leaviss is employed in this role. Her role and reports have been previously discussed. The GRA Committee agreed to reappoint the Independent Observer until 31 May 2016.

13. Available at: [www.barstandardsboard.org.uk/media/1549469/bar\\_council\\_and\\_bar\\_standards\\_board\\_protocol\\_-\\_final\\_pdf.pdf](http://www.barstandardsboard.org.uk/media/1549469/bar_council_and_bar_standards_board_protocol_-_final_pdf.pdf)

14. Available at: <https://www.barstandardsboard.org.uk/about-bar-standards-board/how-we-do-it/governance/>

# Our income and expenditure

**Our budget year ran from 1 April 2013 to 31 March 2014. At the beginning of the year the budget that the BSB directly controlled was set at £5,355k; this was revised shortly afterwards to £5,361k to cover staff ‘cost of living’ increases.**

2013/14 Direct expenditure £4,931k (meaning we spent **8%** less than we had in the budget)

2013/14 Direct income from sources other than Practising Certificate Fee (PCF) £1,605k (meaning we received **9%** less from income sources other than the PCF than we thought we would)

## Some financial context

The Legal Services Act 2007 requires the Bar Council (as Approved Regulator) to provide “such resources as are reasonably required for or in connection with the exercise of regulatory functions”. In practice that means that funds are raised by the Bar Council through the Practising Certificate Fee (PCF) to fund the BSB’s activities. However, the Practising Certificate Fee raises money for some of the BSB’s regulatory activity as well as for some of the Bar Council’s representative activities (as permitted under s51 of the Legal Services Act 2007), so both parts of the organisation need to consider the context within which we operate. Both we and the Bar Council are acutely aware that the practising Bar faces a number of challenges, most notably for those engaged in publicly funded work.

Both the Bar Council and we have faced financial challenges of our own, for example:

- ▶ having eaten significantly into reserves during previous years, the Bar Council decided that there needed to be a balanced budget across all parts of the organisation. This is to ensure that our reserves are placed in a strong position, setting a good foundation for investment and helping to meet possible future liabilities;
- ▶ the Council of the Inns of Court reduced the Inns’ subvention;
- ▶ the funding gap in the pension scheme needed to be plugged; and
- ▶ the BSB’s expenditure budget increased mainly because of the pressures of implementing the Regulatory Standards Framework.

The Bar Council as a whole has had a successful financial year as operating costs were kept within financial plans and investments were made to help reduce operating overheads for the future.

The demands on the regulator, whether driven by statutory obligations or public and professional expectations, are increasing. The BSB has received increased investment in past financial years but, with that investment made, costs are being kept within existing parameters. We have been working with the Bar Council on a more strategic approach to revenue raising. Over time we expect to see a PCF based on both an individual and a chambers or entity-based contribution, better reflecting our evolving approach to regulation.



We have already adopted broad brush principles which mean that where regulatory activity can be clearly attributed to only one sector of the profession, as opposed to being in the interests of or on behalf of the profession as a whole, the direct costs of that specific activity will be recovered from the relevant sector of the profession. We see no reason currently to change that approach. We have enhanced staff capacity in relation to financial planning and project management across the BSB.

As described under Strategic Aim 5, our regulatory improvement programme (TRIP) included a review and revision of our ways of working to streamline them as far as possible.

# Income

## How is the BSB funded?

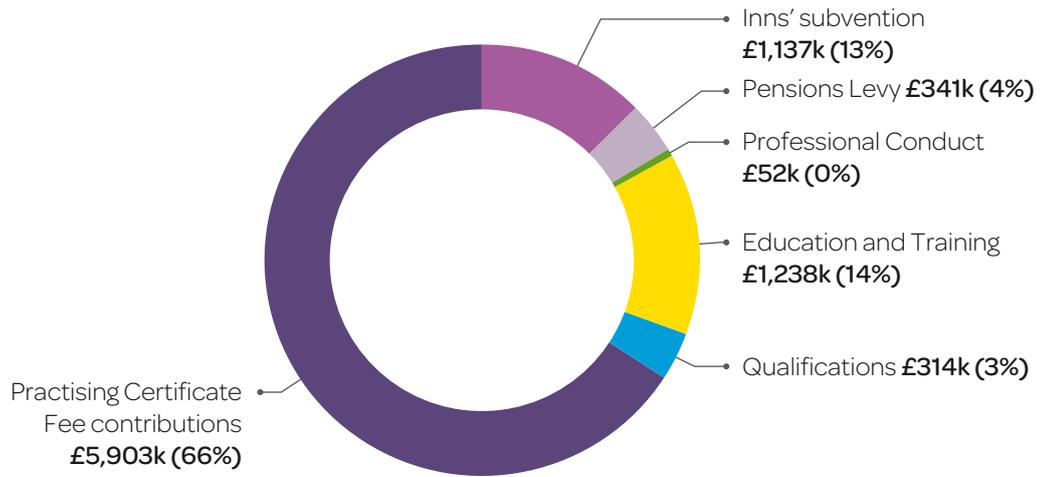
Part of our income comes from charges we make for the services we provide. We describe this kind of income as “income streams directly controlled by the BSB”. Directly controlled income streams include the fees from Bar Professional Training Course (BPTC) Providers, the Bar Transfer Test (BTT) and Continuing Professional Development (CPD) accreditation. The remainder of the BSB’s funding comes from practising certificate fees together with contributions from the Inns of Court. Those income streams are not directly controlled by the BSB.

## Where did the Bar Standards Board get its income from?

<b>Income streams directly controlled by the BSB</b>		<b>£k</b>
Professional Conduct (Enforcement / Disciplinary)	Disciplinary Costs	6
	Conduct Fines	42
	Non-Pay Fines	4
Education and Training (including Exams and Assessments)	Bar Transfer Test	21
	Centralised Exams	2
	Bar Course Aptitude Test	190
	BPTC Candidate Fees	626
	BPTC Oversubscription	38
	BPTC Online	104
	BPTC conference	8
	CPD Accreditation	245
	Public Access Training	4
Qualifications	Academic Stage	53
	Bar Exam	1
	Qualifications Committee Applications	260
<b>Total BSB generated income</b>		<b>1,605</b>
<b>Income streams not directly controlled by the BSB</b>		<b>£k</b>
Practising Certificate Fee contributions		5,903
Inns’ subvention		1,137
Pensions Levy		340
Operating gain <sup>15</sup>		-73
<b>Total regulatory income<sup>16</sup></b>		<b>8,912</b>

15. Income is greater than expenditure because of the pension levy which in future will form part of the operating costs of the business.

16. Figures rounded

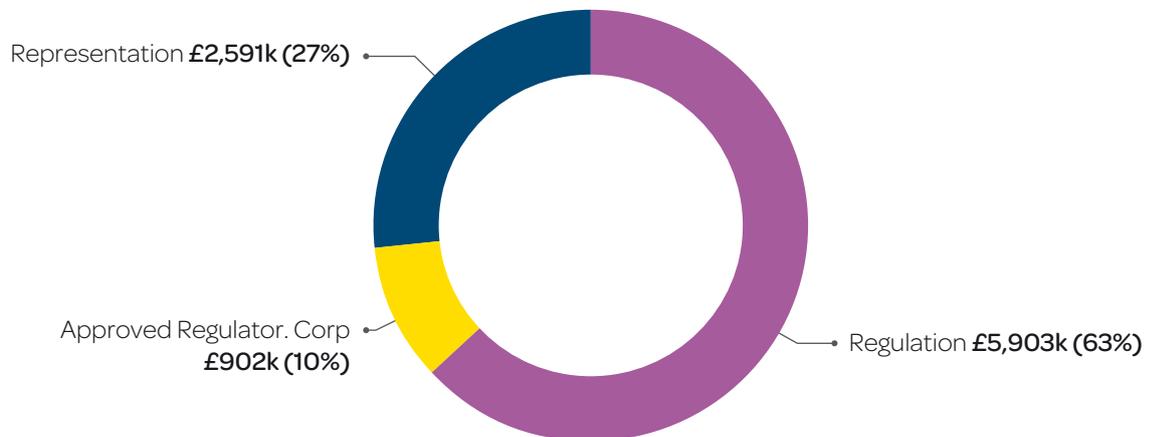


### How much of the Practising Certificate Fee fund did we spend?

A proportion of the practising certificate fee is spent on regulation by the BSB but a proportion is also spent by the Bar Council on representation and the CEO's office.

### What was the Practising Certificate Fee spent on?

	£k
Regulation (Bar Standards Board)	5,903
Approved Regulator. Corp. (includes a portion of the Bar Council's Chairman's office etc)	902
Representation (includes a portion of the Bar Council's Representative and Policy Directorate)	2,591
<b>Total</b>	<b>9,396</b>



# Expenditure

## Regulation – the costs explained

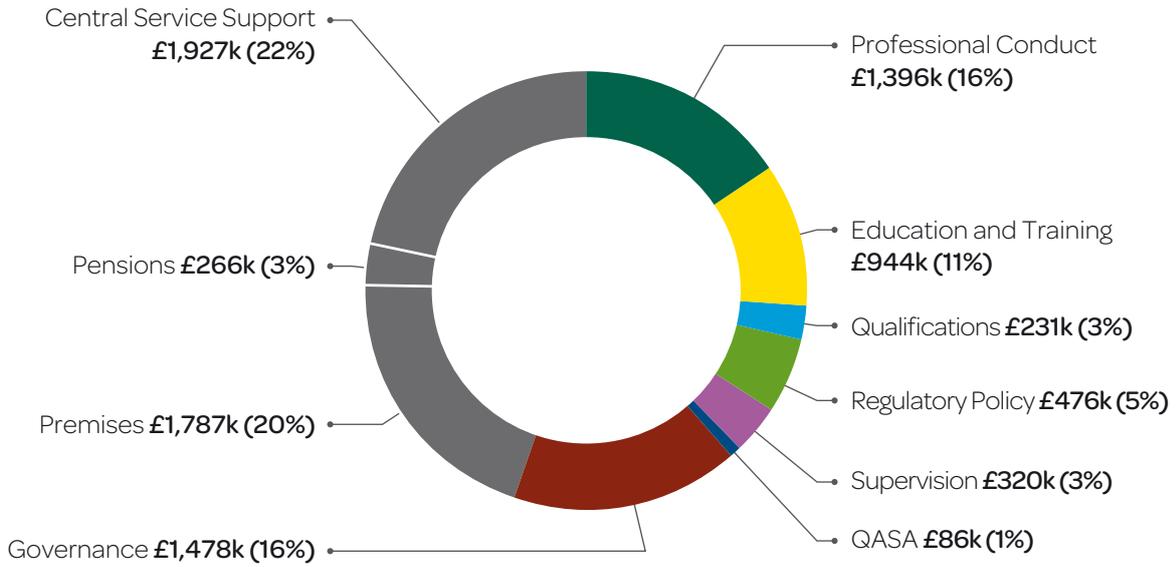
The Bar Standards Board spent £4,931k against a budget of £5,361 meaning that we were underspent by 8%. However, this does not reflect the full cost of the BSB. We share the costs of common services with the Bar Council including a share of the premises at 289-293 High Holborn, as well as relying upon Central Services to carry out support work (HR, IT and Finance etc). The Central Services budget is managed separately and part of it is apportioned to the BSB.

Also attributable to the BSB expenditure is its proportion of Bar Council costs relating to corporate provisions, which include pension costs, sinking fund, and reserves.

### What is the BSB's budget spent on?

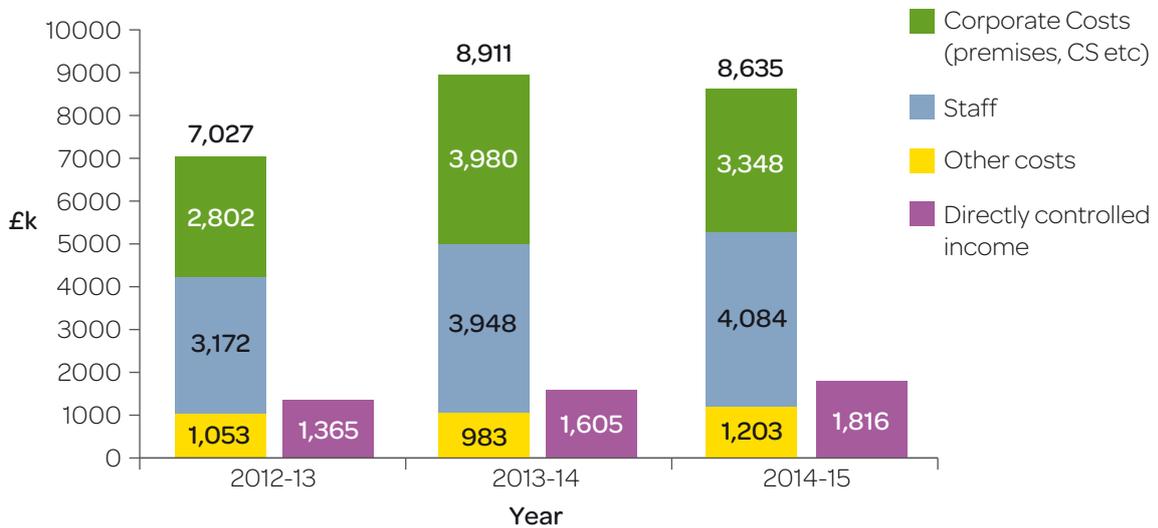
<b>Budgets controlled directly by the BSB</b>	<b>£k</b>
Disciplinary (Enforcement)	1,396
Educ Standards (Education and Training)	944
Qualifications (Authorisation)	231
Professional Practice (and some E&D costs)	476
Quality (Supervision)	320
QASA	86
Governance/Management (Executive, Strategy and Communications, Research)	1,478
<b>Total BSB Budget</b>	<b>4,931</b>
<b>Budgets not directly controlled by the BSB</b>	
Premises	1,787
Pensions	266
Central Service Support <sup>17</sup>	1,927
<b>Total cost of regulation</b>	<b>8,911</b>

17. Corporate service support (including staffing adjustments)



The above pie chart shows the proportions spent on the various aspects of BSB activity. We also have a share of the costs of our premises, pensions deficit and Central Service support attributed to us, as shown above. The Central Services budget has been increasing to accommodate the needs of both the BSB and the Bar Council.

**Three-year trend for BSB actuals and budget<sup>18</sup>**



Other (non-staff) costs remained relatively steady and are not expected to change much in the future. Staff costs significantly increased in 2013/14 due to TRIP and the implementation of the Regulatory Standards Framework. Corporate costs increased due to the investment in Central Services, but are expected to decrease next year with savings from SPACE.

18. 2012/13 actuals; 2013/14 actuals; 2014/15 budget

## Commentary on 2013/14 budget performance

Overall, our performance against the directly controlled budget broadly reflects delivery of the Business Plan ie where there have been delays to projects, our accounts show a delay in spend and receipt of income. Explanations of the main variances are set out below:

### QASA

As mentioned earlier in this report, the Judicial Review and its subsequent appeals have significantly delayed implementation and meant we did not receive the budgeted income of £487k. The interruption to the Scheme timetable has also delayed some items of substantial expenditure, which will now take place in subsequent years (for example, costs relating to additional staff, judicial training and assessor panels).

### Entity regulation

The delays to this programme of work, as discussed earlier, have had quite an impact on both income and expenditure. The technical challenges involved in drafting rules, getting legal advice on our vires and initiating steps to get a s69 order meant that we overspent on legal fees (also see *Legal Advice* below). However the delays also meant that we did not incur costs for the implementation leading to an overall underspend, which offset our underachievement of income.

### Supervision

The new Supervision regime has been launched; however the IT systems to support this new initiative are still to be implemented. IT costs had been phased to occur at the end of 2013/14, but they will now slip into the beginning of the 2014/15 financial year. This also explains the unspent research budget in this area.

### Bar Course Aptitude Test (BCAT)

The plans for some of the educational areas have been greatly improved. However we had originally underestimated both the costs and the revenue projections for the BCAT, which at the time was a novel activity for the BSB. This led to an overspend of non-staff costs which has been offset by an overachievement of income, which will go some way to the recouping of development costs in earlier years.

### Qualifications income

Qualification applications brought in more than budgeted, which was partially the result of a noticeable increase in applications from qualified foreign lawyers.

### Continuing Professional Development (CPD)

The BSB commenced the implementation of new CPD regulations. We had anticipated that there might be some implementation costs for 2013/14 but this has not turned out to be the case, hence the non-staff budget is underspent. The current CPD regime continues and accreditation has generated more than original projections. As the new CPD scheme is implemented over the next couple of years we expect this line of income to decrease considerably.

On a related note, because of the changes to CPD compliance to make the system more outcomes-focused, there was a notable decrease in the number of automatic fines that were issued. This contributed towards a lower level of income from fines and recovered costs than in previous years. The reduction of this income is greatly exceeded by the lower costs needed to run a more risk-based approach.

### Legal advice and professional fees

The 2013/14 year saw a substantial overspend on legal advice and professional fees; however we are not expecting to spend as much in this area in 2014/15. The large spend related mostly to the need for specialist advice in the development of the Handbook and judicial review proceedings relating to QASA in which the BSB became involved.

# Remuneration and expenses

		Salary	Pension and Life Assurance	Expenses claimed	Allowance
Chair	Baroness Deech QC (Hons)	£ 88,032	£ 0 + 323	£ 3,991	
Vice Chair	Ms Patricia Robertson QC	£ 35,000	£ 0 + 128		
Board members	Ms Rolande Anderson	£9,000		£19	
	Mr Rob Behrens	£9,000		£103	
	Ms Sarah Clarke				
	Dr Malcolm Cohen JP	£9,000			
	Ms Justine Davidge				
	Ms Paula Diggle	£8,250			
	Mr Simon Lofthouse QC				
	Mr Matthew Nicklin QC				
	Mr Tim Robinson	£9,000			
	Professor Andrew Sanders	£9,000		£1,725	
	Mr Sam Stein QC				
	Mr Richard Thompson	£9,000			
	Dr Anne Wright	£9,000		£174	
Director	Dr Vanessa Davies	£130,000	£18,200 + £478	£291	£1,294

#### Notes:

- Barrister members are not paid a salary (exception of Vice Chair)
- Board member positions do not attract a pension
- Professor Sanders commutes from Birmingham
- Ms Diggle and Mr Nicklin completed nine months
- Dr Wright incurred expenses exceptionally during a period of reduced mobility
- All staff receive this allowance in addition to basic salary

## Key statistics

**80** members of staff (76.4 full time equivalents)

**£4,931k** spent in 2013/14

**£1,605k** received in 2013/14

# Annex 1

## Professional Conduct Department: Enforcement Statistics

Opened or received cases during the course of the year	408
Cases referred to disciplinary action during the course of the year	64
Complaints closed during the course of the year	499
Number of cases heard by Disciplinary Tribunal during the course of the year	78
Percentage of cases heard by Disciplinary Tribunal which resulted in a finding of misconduct on one or more charges during the course of the year	95%
Number of barristers disbarred over the course of the year	19

## Profile of those submitting complaints to the BSB

Internal complaints raised by the BSB	26.5%
Civil litigants	23%
Family law litigants	9.1%
Complaints arising from criminal proceedings	8.3%
Solicitors	6.1%
Barristers	4.7%
Other	22.3%

## KPI Performance

"The percentage of complaints concluded or referred to disciplinary action within service standards"

### Service standards

Complaints concluded without an investigation: 8 weeks

External complaints concluded or referred to disciplinary action following investigation: 8 months

Internal complaints concluded or referred to disciplinary action following investigation: 5 months

2012/13 performance	64%
2013/14 performance	76.7%

## Contact us

We are committed to providing a high standard of service and dealing with everyone in a way that is fair, transparent and proportionate. We welcome feedback on our services, particularly where the level of service has exceeded or fallen below expectations. Comments and suggestions are important to us as they will help us to meet our obligations and improve our performance.

### Write to us:

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London WC1V 7HZ

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Fax: 020 7831 9217

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