

# Annual Report

## 2016/17

The Bar Standards Board regulates barristers and specialised legal services businesses in England and Wales in the public interest



# Our year in numbers: 2016-17

We regulate almost

**16,000**

practising barristers.

(and a further 49,000 non-practising barristers are subject to our regulation)



We authorise over 60 specialised legal services businesses.



Chair

## Our Board



8 Lay members  
(including the Chair)



7 Barrister members



We seek to promote **equality and diversity:** 1,333 people responded to our **Women at the Bar** survey.



We introduced a new Continuing Professional Development (CPD) scheme for established barristers on 1 January 2017.



**208 applications**

were received by us from solicitors, EU lawyers, overseas lawyers and legal academics wanting to transfer to the Bar.



In **52** cases barristers had a disciplinary finding against them. **19** barristers were disbarred. **5** barristers were suspended.



New regulatory approach to improve advocacy standards within Youth Courts announced.



**Over 300 people**

attended one of our 30 stakeholder engagement events, and a further 800 people registered to attend our CPD workshops.



**1,167 centralised assessment papers**

were sat by students in August 2016 as part of their BPTC and a further 1,559 papers were sat in March 2017.

(NB: The spring BPTC exams took place between March and May, so further papers were sat by students in May 2017)



# Who we are and what we do

**We regulate barristers and specialised legal services businesses in England and Wales in the public interest.**

## **We are responsible for:**

- setting the education and training requirements for becoming a barrister;
- setting continuing training requirements to ensure that barristers' skills are maintained throughout their careers;
- setting standards of conduct for barristers;
- authorising organisations that focus on advocacy, litigation, and specialist legal advice;
- monitoring the service provided by barristers and the organisations we authorise to assure quality; and
- handling complaints against barristers and the organisations we authorise and taking disciplinary or other action where appropriate.

## **The Regulatory Objectives**

**Our objectives are laid down in the Legal Services Act 2007. We share them with the other legal services regulators. They are:**

- protecting and promoting the public interest;
- supporting the constitutional principle of the rule of law;
- improving access to justice;
- protecting and promoting the interests of consumers;
- promoting competition in the provision of services;
- encouraging an independent, strong, diverse and effective legal profession;
- increasing public understanding of citizens' legal rights and duties; and
- promoting and maintaining adherence to the professional principles.

## **Risk-based regulation**

We do all of this by taking a proportionate, risk-based approach to regulation. This means that we are constantly monitoring the market for barristers' and advocacy services. We identify all of the potential risks that could prevent the Regulatory Objectives (see above.) from being met. When we have done this, we focus our attention as the regulator on the risks that we think pose the biggest threats to the public interest.

We then take action to try and prevent those risks from occurring, or to reduce their impact. The work that we do is governed by the Legal Services Act 2007 as well as by a number of other statutes.

**Please visit our website at [www.barstandardsboard.org.uk](http://www.barstandardsboard.org.uk) to find out more about what we do.**

# Welcome to our Annual Report for 2016-17

Introduction	2
Our current strategic priorities	5
Strategic Programme 1	6
Strategic Programme 2	7
Strategic Programme 3	7
Our teams and their work	9
The story of our year	12
Our governance	33
Our income and expenditure	35
Remuneration and expenses	39
Our organisational values	40

## A personal word of introduction from BSB Chair, Sir Andrew Burns



### Welcome to our Annual Report for 2016-17.

2016-17 has been a very busy year for all of us at the Bar Standards Board. Our work has included consulting on major Bar training reforms, reporting on our survey of women at the Bar, introducing a new Continuing Professional Development (CPD) scheme for experienced barristers, and responding to the Competition and Markets Authority's (CMA's) review of the legal services market.

However, as well as explaining these flagship policy developments, I am keen for this Annual Report to shine a spotlight on the day to day tasks that we undertake when regulating barristers and specialised legal businesses in England and Wales in the public interest.

The reality is that most of our work – and most of the cost that we incur as a regulator – concerns business-as-usual activities. These are activities that we have a statutory duty to undertake and for which the size of our regulated community of barristers - and the complex nature of their work - dictates the extent, scope and cost of regulation.

As you will see from some of the graphics in this Report, we regulate almost 16,000 practising barristers as well as over 49,000 who are not practising as barristers but still have to abide by the rules in the BSB Handbook. We supervise their activities, process their applications and waivers with regard to our practising rules, answer their queries, and generally aim, in the public interest, to support their work as barristers.

Barristers are professional people who generally abide by the highest possible ethical standards and our legal system is rightly the envy of the world. But, from time to time - and in a very small number of cases considering the total number of practising barristers - we also have to take disciplinary or other enforcement action against barristers when things go wrong.

We aim to do our work as efficiently as possible and in a way that delivers value for money for those who fund us.

As 2016-17 was the first year of our current three-year Strategic Plan, there were a number of significant policy developments announced or put into effect during the year. We describe these developments in more detail within this Report, but the highlights included:

- preparing barristers for the new, more flexible CPD scheme for established practitioners that came into force on 1 January 2017;
- publishing the Professional Statement, which now includes the Threshold Standard and Competences and sets out in more detail the skills, knowledge and attributes which barristers are expected to have on “day one” of being issued with a practising certificate;
- engaging with the Bar and other stakeholders in what proved to be our largest consultation ever and one which provoked strong feelings amongst some members of the Bar. The consultation considered a number of approaches to Future Bar Training (FBT) and ultimately led to our decision to authorise in future a limited number of training routes for prospective students to qualify as barristers;
- publishing a new equality and diversity strategy to continue the progress being made at the Bar in this area, and to improve access to justice;
- taking action to address unfair treatment of women at the Bar, following the publication of our 2016 survey findings;
- agreeing new measures to improve standards of advocacy within Youth Courts, including publishing new guidelines for barristers working in youth proceedings based on a set of essential competences that are expected of all advocates working with young people;
- preparing to license Alternative Business Structures (ABSs); and
- responding to the CMA’s report following its market study into the supply of legal services in England and Wales.

The CMA report concluded that competition in the legal services market for consumers and small businesses is not working well, largely because consumers and small businesses lack the experience and information they need to drive competition by making well-informed purchasing decisions. We agree with the CMA. Consumers are our most important stakeholders and it is vitally important that we do more to help them get access to justice.

As the Bar’s regulator, we will respond to the CMA’s findings. Our regulatory response – along with the responses of the other legal regulators - will form a large part of our policy development work during 2017-18 and beyond. Some of the issues raised by the CMA are challenging both for us and for the Bar itself: for example, its comments about the need for greater fee transparency. We recognise this, and will be seeking to engage with those we regulate on this topic, and before we make any changes to the BSB Handbook.

Speaking of engagement, one of the features of our work during 2016-17 was the extent to which we “got out and about” to meet organisations that represent legal consumers, barristers and other people with an interest in our work. Personally, I found these encounters particularly rewarding. We held a series of roadshows around the country to meet and speak with barristers ahead of the introduction of the new CPD regime, and to talk to students, barristers and training providers during the FBT consultation. All in, we hosted and supported 30 events in 2016-17 at which over 1,100 people attended or registered to attend (including our CPD webinar in October 2016).

All of us at the BSB regularly meet with our counterparts at the other legal regulators and at other relevant bodies to collaborate with them in our work.

We intend to continue and expand our engagement programme in 2017-18. We are very keen to hear feedback about every aspect of our work and to listen to the views of the public, barristers and other interested parties.

In addition to our CMA response, our other priorities for 2017-18 include:

- beginning to implement the reform of Future Bar Training;
- conducting research so that we can better understand the barriers for students and pupils with protected characteristics; and
- continuing to implement our recommendations to improve the experiences of young people who are the subject of proceedings in the Youth Courts, and the standards of advocacy that they receive.

The Board of the BSB, which I chair, is made up of eight lay and seven barrister members, and our role is to set the BSB's strategic direction, to make major policy decisions and to hold the Executive to account to ensure that they are meeting our regulatory aims and objectives. We met regularly throughout 2016-17 and continue to do so, ably assisted by our committees: the Governance, Risk and Audit committee ensures good governance and internal controls are maintained; the Planning, Resources and Performance committee helps to develop our strategic direction, to allocate resources and to monitor performance; the Professional Conduct committee decides whether or not to take enforcement proceedings against barristers who are alleged to have breached the BSB handbook; and the Education and Training committee determines the education and training which new barristers require as well as the training requirements that practising barristers must meet throughout their careers. I should also like to pay tribute to members of the Qualifications committee, which decided on individual applications for waivers or exemptions from those training requirements, but which is now being disbanded as part of our current governance reforms. The Board look forward to continuing our role in the coming year.

Finally, I would like to thank all of my colleagues on the Board, our committee members, and our excellent executive team of staff for all of their hard work and effort during 2016-17. We are continuing to carry out the governance changes that we announced in 2015. Doing so has enabled us to realise real efficiencies in our regulatory operations. It has also allowed us to distinguish more clearly between policy-making and decision-making on individual cases, in the ways in which we conduct and oversee our activities. It has been a sterling effort by everyone concerned.

I hope that you enjoy reading the story of our year.



**Sir Andrew Burns KCMG**  
**Chair, Bar Standards Board**

# Our current strategic priorities

**2016-17 was the first year of our three-year Strategic Plan running from 2016 to 2019. We published the new Plan in March 2016 to build upon our progress over the previous five years to become a more modern and efficient regulator.**

Our current Strategic Plan organises our work into three Programmes. Each Programme comprises both reform and continuing regulatory “business as usual” activities. These Programmes are:

1. regulating in the public interest;
2. supporting those we regulate to face the future; and
3. ensuring that there is a strong and sustainable regulatory function for the Bar.

Embedded into these programmes is our approach to how we address the main risks we perceive to our Regulatory Objectives. These are the themes that we have identified as priorities through the work we have conducted to understand the market and the risks to the Objectives which may arise. The themes are:

- A. the risk of failure by those we regulate to meet consumer needs;
- B. the risk of lack of diversity, and discriminatory practice and culture at the Bar; and
- C. the risk of commercial pressures on legal service providers.

The diagram below represents our approach:



To help you understand how the work that we did during 2016-17 fits into our Strategic Plan, this Report uses these graphic devices to cross-reference pieces of work to one of our three strategic themes.



You can read more about our approach to regulating the Bar, risk-based regulation (including more about our risk themes) and our current Strategic Plan on our website at: [www.barstandardsboard.org.uk/about-bar-standards-board/how-we-do-it/](http://www.barstandardsboard.org.uk/about-bar-standards-board/how-we-do-it/)



## Strategic Programme 1: Regulating in the public interest

**This Programme is about ensuring that our regulatory approach promotes and protects the interests of consumers of legal services and the wider public. It includes making sure that we maintain our focus at all times on actions that help the public navigate the legal system and, where necessary, to interact with barristers.**

We want to help the public to understand the fast-changing and complex market for legal services, so that consumers of those services can make informed choices and have a better knowledge of their legal rights and duties as citizens. The recent CMA report has given further emphasis to the importance of this work.

We will develop our dialogue with the profession and consumers so that what we propose and what we do can be demonstrably evidence-based and risk-focused as well as understood by users and providers. We will do this by engaging with both the profession and consumers in face-to-face meetings and via digital channels where appropriate.

We will continue to strengthen and demonstrate our independence from the profession as is appropriate given our important regulatory objectives. This includes continuing to ensure our regulatory decision making processes are independent, consistent and transparent.

2

## Strategic Programme 2: Supporting barristers and those the BSB regulates to face the future

**This Programme is about supporting the profession so that it can continue to provide essential legal services at a high standard to the public in the years to come.**

The legal services market is changing rapidly and will continue to do so. We will help the public to understand the separate nature and specific skills of the Bar in a legal world where regulatory constraints apply primarily to the reserved activities, such as advocacy in the higher courts and litigation. This is particularly necessary where the forces of unregulated competition will be increasingly felt in other areas of a barrister's work and competence. For example, the public needs to understand the difference between a fully qualified, regulated and insured barrister and a "McKenzie Friend" (someone who assists a person who is representing themselves in court (a "litigant in person") and who may be paid but who may not be either regulated or legally qualified).

We will seek to encourage the profession to cooperate more closely with solicitors and other legal professionals where that may offer advantages for the public. We will also continue our plans to authorise entities and Alternative Business Structures to provide barristers with further opportunities to innovate in the ways in which they can supply legal services.

We will ensure our regulatory frameworks do not pose unnecessary barriers to entering the market and we will reform legal education and training to sustain high standards while making training for the Bar more accessible, affordable and flexible.

3

## Strategic Programme 3: Ensuring a strong and sustainable regulator

**This Programme is about making sure that we take the necessary steps to remain an efficient and effective regulator for the Bar in the long-term.**

We will continue to position the BSB as the regulator of legal services which have advocacy and specialist legal advice at their core.

We will actively promote regulatory governance arrangements which are constitutionally independent of government and of the profession we regulate, whilst at the same time ensuring that we maintain our credibility with the public. We will maintain and extend our accountability.

We will continue to promote our core values of fairness, integrity, respect, excellence and value for money. We will maintain our strong track record of transparency, accountability and good stewardship of resources by setting out clear and meaningful measures of success.

### **Adaptable plans for changing times**

When we published our Strategic Plan in 2016, we acknowledged that there was a great deal of uncertainty concerning the regulatory environment in which we operate. For this reason, we needed to make sure that our Strategic Plan and our annual Business Plans were flexible and adaptable, so that we could respond to these changes and re-prioritise our work as and when necessary.

Although our three main risk themes have remained unchanged since March 2016, a number of events occurred during 2016-17 that required our attention. Most notable of these was the publication of the CMA report in December 2016. (This is discussed in more detail elsewhere in this Report.) Broader developments such as Brexit have also had an impact on our plans and priorities.

Despite this, as you will see on page 27 of this Report, nearly all of the tasks that we set ourselves in our 2016-17 Business Plan were delivered as planned and to budget.

# Our teams and their work

This organisation chart shows how we are structured. A description of the work of each team is provided below. On 1 April 2017, we had 79 people employed at the BSB.

## Our Board

Sir Andrew Burns KCMG – *(Chair)*  
Naomi Ellenbogen QC – *(Vice-Chair)*

**Barrister members** - Aidan Christie QC, Justine Davidge, Judith Farbey QC, Andrew Mitchell QC, Adam Solomon, Anupama Thompson

**Lay members** - Alison Allden OBE *(from 1 January 2017)*, Rolande Anderson, Rob Behrens CBE *(resigned wef 31 March 2017)*, Dr Malcolm Cohen JP *(until 31 December 2016)*, Steven Haines *(from 1 January 2017)*, Zoe McLeod *(from 1 January 2017)*, Tim Robinson *(until 31 December 2016)*, Prof Andrew Sanders *(until 31 December 2016)*, Nicola Sawford, Dr Anne Wright CBE

**Special Advisors (until 31 December 2016)** – Keith Baldwin and Emily Windsor

## BSB Director General

Dr Vanessa Davies



## Regulatory Assurance

The Regulatory Assurance Department brings together all of our supervision and authorisation functions. Our aim is to assure, maintain and enhance standards across the profession through the development of measures for assessing the adherence to the standards set out in the BSB Handbook of both individual barristers and the chambers and entities in which they practise. This includes a risk-based approach to the supervision of chambers, the authorisation of new entities and the regulation of CPD.

We oversee the Academic, Vocational, and Pupillage stages of training that must be completed in order to qualify as a barrister. This includes all aspects of managing the centralised examinations on the current Bar Professional Training Course (BPTC). We also decide on individual applications from people wishing to qualify and/or practise as barristers but who would like to be exempted from some or all of the normal training requirements.

## Professional Conduct

The Professional Conduct Department investigates concerns about the professional conduct of barristers and others whom we regulate and, where appropriate based on an assessment of risk, takes action against those who may have breached the Core Duties or other provisions of our Handbook.

We always use the same four stage process to ensure that we deal with all complaints fairly and efficiently. This process is described in detail on our website at: <https://www.barstandardsboard.org.uk/complaints-and-professional-conduct/making-a-complaint/what-will-happen-as-a-result-of-your-complaint/>

When a complaint leads to a disciplinary tribunal these are arranged by an independent organisation called the Bar Tribunals and Adjudication Service (BTAS).

### Barristers' Core Duties

The rules and code of conduct for barristers in England and Wales are contained within the BSB Handbook. There are ten core duties that all barristers must observe. These are:

#### Barristers must...

- observe their duty to the court in the administration of justice;
- act in the best interests of each client;
- act with honesty and integrity;
- maintain their independence;
- not behave in a way which is likely to diminish the trust and confidence which the public places in them or in the profession;
- keep the affairs of each client confidential;
- provide a competent standard of work and service to each client;
- not discriminate unlawfully against any person;
- be open and co-operative with their regulators; and
- take reasonable steps to manage their practice, or carry out their role within their practice, competently and in such a way as to achieve compliance with their legal and regulatory obligations.

The BSB Handbook is available on our website at: <https://www.barstandardsboard.org.uk/regulatory-requirements/bsb-handbook/>

## Strategy and Policy

The Strategy and Policy Department brings together a number of functions, which underpin our role as a risk and evidence-based regulator. This includes regulatory risk and research functions, as well as responsibility for policy development and diversity.

We gather evidence about what is happening in the market and the impact that our actions are having – we do this by conducting research (either by ourselves or with others) and engaging with stakeholders who have an interest in our work. Where necessary, we use this knowledge to set or revise standards and introduce rules and guidance for barristers and entities. These are collated in the BSB Handbook. We develop policy on the educational pathways into the profession. In addition we develop policy on conduct of practice in areas such as chambers' complaints handling and direct public access to barristers.

Another area of particular concern is equality and diversity, where we set a number of objectives in our Equality Strategy.

## Communications and Public Engagement

The Communications and Public Engagement Department is responsible for all of our internal and external communications including our publications, website, social media activity and media relations. It helps our other teams to engage with the profession and other stakeholders to make sure that we discuss our policy development plans in an open and consultative way.

## Corporate Services

The Corporate Services Department provides support with strategic and business planning, management accounting and budgeting, reporting and ensuring that we maintain good practices, policies and procedures.

## Resources Group

We share the following support services with the Bar Council: Facilities, Finance, Information Services, Human Resources, Records and the Project Management Office.

# The story of our year

In this section, we outline what we achieved during 2016-17. If you want to see this reported against the list of activities that we set out in our 2016-17 Business Plan, please refer to the table on page 27.

Overall, we had **a productive and busy year**. Key highlights from the year included:

- introducing new measures to improve standards of advocacy within Youth Courts;
- introducing a new CPD scheme for established barristers;
- consulting the profession and others about the future of Bar training;
- publishing the results of our major survey about women's experiences at the Bar; and
- preparing to license Alternative Business Structures (ABSs).

However, most of our work regulating barristers is taken up with the day-to-day tasks necessary to oversee qualification for, and the activities of, the practising Bar. With almost 16,000 registered barristers in England and Wales and a further 49,000 unregistered barristers who are also subject to our regulation, these everyday **business-as-usual, regulatory tasks** account for around 80% of our costs. These tasks include:

- supervising barristers' chambers;
- assessing complaints about barristers' professional conduct;
- when necessary, taking appropriate disciplinary action against barristers who have broken the rules;
- issuing practising certificates to individual barristers on an annual basis, and thereby authorising them to practise;
- assessing and processing applications from barristers to extend their practising certificates to include authorisation for public access work and/or to conduct litigation;
- managing the centralised examinations for the Bar Professional Training Course (BPTC);
- supervising BPTC providers;
- assessing and processing applications associated with the education and training of barristers including those relating to pupillage, CPD, transferring qualified lawyers, and applications to become a pupillage training organisation;
- complying with our statutory equality and diversity responsibilities; and
- authorising entities and ABSs.

In order to assure value for money when conducting these "business-as-usual" activities, we have robust governance arrangements in place to make sure that we do this all as efficiently as possible. We have made good progress in this regard, as reflected by the fact that our directly controllable expenditure has remained steady over the past few years.

## Assuring standards of practice by barristers

Making sure that members of the public can have confidence in the services that they receive from their barrister is one of the most important areas of our work. Assuring standards of advocacy is one of the bedrocks of the justice system and of the rule of law in general. The public must be able to rely on the standard of representation that they receive in court.

There are a number of ways in which we go about assuring the standards of practice delivered by barristers.

First, we closely **monitor and supervise barristers' practices**. In this way, we hope to be able to identify whether something needs to change in the barrister's practice. In most cases nothing needs to change but if something does – or we think there is a strong chance that something might go wrong in the future to prevent the barrister from providing a high standard of service and/or the impact of this could have serious consequences – circumstances which we term “high-risk” – we work collaboratively with the barrister's chambers to put things right. This could involve additional training, making a change to a barrister's working procedures or anything else that we think is necessary to assure standards.

Supervision is now embedded within our overall regulatory approach. The emphasis is on helping chambers manage compliance and risk to ensure that they are meeting their regulatory requirements and are doing what they can to prevent any risks that have been identified from occurring. We target those chambers that present the greatest risk (with reference to our Risk Index) – or where we receive information about a particular barrister or chambers that indicates high-risk. We visited a significant number of high-risk chambers in 2015-2016 which enabled us in 2016-2017 to focus our supervision activity where there remained evidence or there was new evidence of high-risk. This activity included six visits to chambers as well as on-going desk based supervision. This means that we make the best use of the resources that we have available in developing constructive and positive relationships with chambers where they are most needed.

The work undertaken by our Supervision team is one of the main ways in which we can assure the public that the majority of barristers and their chambers provide advocacy and other services to an acceptable standard.

Another way in which we can assure standards of practice is by taking **enforcement action** against the relatively low number of barristers who are found to have broken the rules of professional conduct.

Our method for investigating complaints about barristers' professional conduct is thorough, robust and fair. The public can be confident that appropriate action is taken against barristers who break the rules. Yet, at the same time, barristers can be assured that if they are the subject of a complaint, we will investigate it carefully and deal with it in a fair and proportionate way.

During 2016-17, we opened 366 complaints about the conduct of barristers. Eighty per cent of these complaints – many of which can be exceedingly complex - were concluded or referred to disciplinary action within agreed service standards. These service standards require that:

- initial assessment of a complaint be completed within eight weeks either by the complaint being closed without investigation or with it being referred to investigation;
- complaints from third parties be closed after investigation or referred to disciplinary action within eight months; and
- complaints raised by us be closed after investigation or referred to disciplinary action within five months.

During 2016-17, a total of 52 barristers had disciplinary findings made against them with 19 of these barristers being disbarred and a further five of them being suspended.

You can read more about the work of our Professional Conduct Department in our separate annual Enforcement report about this aspect of our work. This report will be available on our website shortly after this Annual Report is first published.

Finally, if we think our rules about advocacy standards for barristers need to be amended we can apply to our oversight regulator, the Legal Services Board, to have them changed. We will only change the rules after we have developed a properly evidenced policy proposal, and engaged and consulted with the profession and other interested stakeholders about the change.

Our work on the proposed **Quality Assurance Scheme for Advocates** was put on hold while we waited for the Ministry of Justice to announce proposals for a defence panel scheme.

Two policy developments that we were able to take forward during 2016-17 were our ongoing work to address access to the market by those requiring immigration advice and representation, and our work to improve advocacy standards in the Youth Courts. In accordance with our risk prioritisation work, both of these developments relate to situations where barristers' clients have particular vulnerabilities.

In 2016, we published the results of our comprehensive **review of immigration services** and adopted a new set of recommendations. We conducted the review, because we identified this area as one where consumers are especially vulnerable and may find it hard to access the market to their advantage. The recommendations included a plan to develop a framework that barristers can use to assess and manage immigration client vulnerability, including questions a barrister can ask clients, and information about referral to other services if necessary. The plan also involves us publishing case studies alongside our existing guidance, outlining what "good" and "poor" service looks like to help immigration clients understand what to expect when they interact with a barrister, and their legal rights if they do receive a "poor" service. This guidance was published in June 2017.

In early 2017, we announced **a new regulatory approach designed to improve advocacy standards within Youth Courts**. We published new guidance for barristers working in youth proceedings based on a set of essential competences that are expected of all advocates working with young people. These competences are shown in the diagram below.



We also announced that later in 2017 we plan to introduce compulsory registration for barristers practising in youth courts. Whilst there are examples of good practice in this area, standards are variable. Registration will allow us to identify all barristers who are working in the Youth Courts and where necessary to take steps to ensure that they have the specialist skills, knowledge and attributes that are crucial when working with young people.

We continued to engage actively with key stakeholders and organisations about our work on Youth Court advocacy standards to ensure that barristers' work in this area is seen as a specialism. We have engaged with the Judiciary, the Inns of Court College of Advocacy, the Magistrates Association, the Youth Justice Legal Centre (part of Just for Kids Law) and the Youth Justice Board among other organisations.

We are increasingly being seen as a leader in this sector and are now a member of the Alliance for Youth Court Reform, headed by Lord Carlile CBE QC. Furthermore, we have received significant positive feedback and praise for our work from stakeholders in the sector.



### In Focus: Why standards of advocacy in the Youth Courts matter.

No one could argue against the notion that every child deserves the very best chance in life. But what happens when that child ends up accused of a serious crime and finds itself caught up in the daunting world of the justice system? It can be difficult enough for some adults, let alone for children who may also have mental health issues, learning and communication difficulties and/or troubled backgrounds.

To illustrate the issues, we reproduce here a case study from the Youth Justice Legal Centre – one of the many stakeholders with whom we have worked to develop our new regulatory approach for improving standards of advocacy within the Youth Courts:

#### **Juwon's story** (not his real name):

Juwon was 16 years old when he was arrested after being found asleep in a flat that had been broken into. He was charged with burglary and bailed to appear at a youth court. At court he was polite, answered questions when asked, and agreed with the police statements. On this basis, he was advised to plead guilty.

The court heard he was in school and hoped to become a plumber. He was apologetic and remorseful. As he was automatically eligible for a referral order, the hearing lasted a few minutes.

In the weeks that followed, the Youth Offending Team (YOT) discovered Juwon was homeless. He had been living with his uncle and aunt; shortly before the burglary allegation, Juwon's uncle had died unexpectedly. Juwon was very close to his uncle and struggled to come to terms with his death. On the night of his arrest, Juwon had been drinking heavily and has no memory of how he came to be in the flat. His aunt was understandably upset at Juwon's behaviour and lack of respect, so cut all ties with him, leaving his belongings in black bags outside her home and refusing to come to the police station or court.

Juwon did not volunteer any of this information. A barrister with youth justice expertise would have known the importance of finding out background information and it is highly likely the Crown Prosecution Service would have reviewed their decision to prosecute. Regrettably, Juwon now has a criminal record for an offence of domestic burglary. This is likely to prove a barrier to his career aspirations.

## Introducing a new Continuing Professional Development scheme for barristers

One of the ways in which barristers can ensure that they continue to demonstrate high standards of advocacy, and to provide a good level of service to their clients in other ways, is by undertaking Continuing Professional Development (CPD). This is why CPD is an important part of our regulatory toolkit. We have a statutory responsibility to assure the public, independently, that they can rely on barristers as being up to date and competent.

Indeed a commitment to the constant updating of knowledge and skills is the hallmark of all professions.

In January 2017, we introduced a new CPD scheme for established barristers with three or more years of practising experience, because we wanted to change the focus to be on the quality of barristers' CPD rather than the quantity. (The CPD scheme for barristers with less than three years' practising experience did not change.)

Compared with the previous CPD schemes, the new scheme means that established barristers:

- have more individual responsibility for deciding what CPD activities they require;
- are able to choose from a wider range of CPD activities; and
- no longer have a requirement to complete a minimum number of accredited hours.

The new scheme is illustrated in the diagram below and is explained further in the "In Focus" section on the next page:



The new scheme came into force after an extensive period of consultation with the profession, and after a trial had taken place during 2015. This meant that we could listen to the profession and refine the scheme to make sure its introduction ran smoothly, and that it met our objectives.

During 2016 we engaged with barristers up and down the country to make sure that they understood the new scheme and were ready to start complying with it. During the autumn, we held a number of “roadshow” events in all of the Circuits and ran a webinar which over 800 people registered to attend. The feedback from the events was very positive.

The new arrangements bring the CPD scheme for barristers in line with schemes in many other professions. The new scheme enables us to adopt a proportionate and cost-effective regulatory approach to barristers’ CPD by allowing us to spot-check individual barristers’ CPD plans. It shifts the emphasis from completing a specified number of hours to the relevance of CPD undertaken - a change that we think is in the best interests of the public.

We look forward to reflecting on the scheme’s first year of operation.



### **In Focus: What experienced barristers need to do to comply with the new CPD requirements.**

In December 2016, after consulting the profession, we published a comprehensive set of guidance for barristers about the new CPD scheme on our website.

To demonstrate how the scheme works in practice, this guidance can be summarised as follows, and with reference to the four stages in the CPD planning cycle:

- 1. REVIEW:** Barristers should prepare a written CPD Plan setting out their learning objectives and the activities they propose to undertake during the year.
- 2. RECORD:** Barristers should keep a written record of the CPD activities they have undertaken over the past three years including their reflection on the CPD they have undertaken during that time, any variation in their plans and an assessment of their future learning objectives.
- 3. REFLECT:** Barristers should reflect on their planned and completed CPD activities to assess whether they have met their objectives.
- 4. REPORT:** Barristers must declare to the Bar Standards Board annually that they have completed their CPD. This should be completed as part of the authorisation to practise process, when they renew their practising certificate.

The full guidance for barristers can be found at: [https://www.barstandardsboard.org.uk/media/1800835/cpd\\_guidance\\_for\\_barristers.pdf](https://www.barstandardsboard.org.uk/media/1800835/cpd_guidance_for_barristers.pdf)

## Assuring standards of entry to the profession

A large part of the day-to-day business as usual work that we undertake as a regulator involves the process by which new barristers qualify to practise in England and Wales.

We have a duty to make sure that everyone who is authorised has met the necessary standards to be allowed to practise. This is one of the most important ways by which we assure the public that everyone being called to the Bar is fit to do so.

The following list shows the variety of **roles we play in the qualification of a new barrister**, as well as illustrating the scope and extent of the work that we undertook in 2016-17:

- **1,867** students took a Bar Course Aptitude Test – one of our regulatory requirements – in order to demonstrate their aptitude to complete the Bar Professional Training Course (BPTC) successfully;
- **1,423** students enrolled with a BPTC provider in order to study on the BPTC;
- **1,167** centralised examinations papers were sat by students in August 2016 as part of their BPTC and a further 1,559 papers were sat in March 2017 (NB: The spring BPTC exams took place between March and May, so further papers were sat by students in May 2017);
- **140** applications were received by us from students wishing to be exempted from various aspects of the academic or vocational stages of learning;
- **15** organisations applied to us to become a pupillage training organisation;
- **147** applications were received by us from prospective barristers for exemptions and waivers in relation to pupillage;
- **147** qualified overseas lawyers or qualified UK solicitors took the Bar Transfer Test in order to be eligible to practise as a barrister in England and Wales; and
- **208** applications were received by us from solicitors, EU lawyers, overseas lawyers and legal academics wanting to transfer to the Bar.

Many of the applications referred to above are dealt with by our Qualifications Committee under our current governance arrangements. However, from August 2017, this will change when the Qualifications Committee is disbanded to allow decisions of this nature to be made by our staff. This change is an example of where we are making every effort to streamline our processes and to ensure value for money for those who fund us. Where necessary, our staff will be able to access expert advice from our retained pool of experts (known as “APEX”).

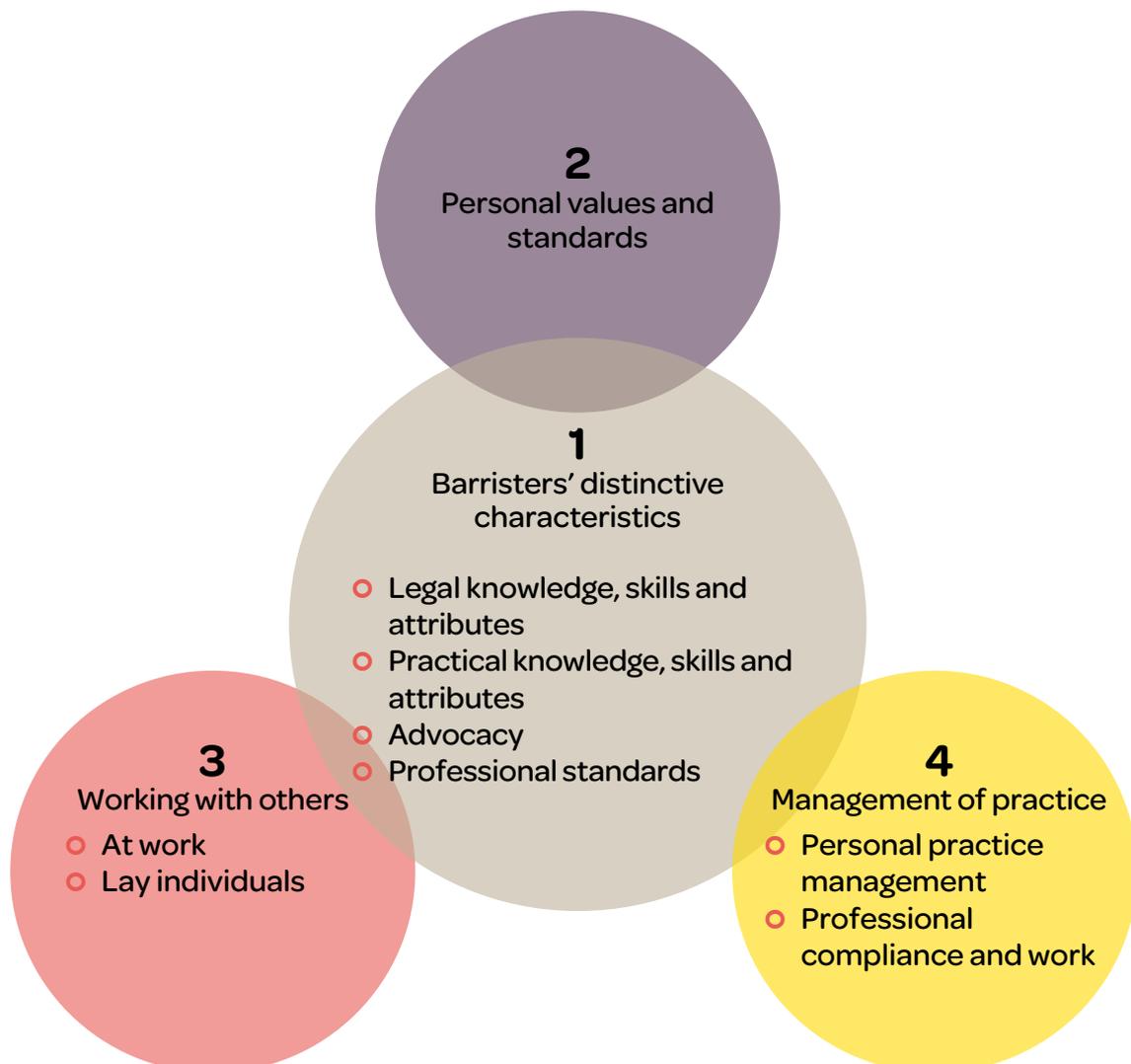
## Reforming the system for qualifying as a barrister

Our extensive review of education and training for barristers, known as “**Future Bar Training**”, has been running since late 2014. In 2016-17, substantive progress was made.

First, and most importantly, we published a revised version of the Professional Statement, which now includes the Threshold Standard and Competences. It sets out in more detail the skills, knowledge and attributes which barristers are expected to have on “day one” of being issued with a practising certificate.

**The Professional Statement** is an important component of our Future Bar Training programme of reforms, because it underpins the future system of training for the Bar. It describes the standards by which anyone hoping to practise as a barrister in the future will be assessed. Please see the diagram below for an overview of what the Professional Statement contains.

### The Professional Statement: an overview



The full version of the Professional Statement is available on our website at: <https://www.barstandardsboard.org.uk/qualifying-as-a-barrister/future-bar-training/professional-statement/>

Having finalised the Professional Statement to incorporate the Threshold Standard and Competences, the next stage was for us to consult on possible approaches for new training pathways.

In July 2016, and before we launched our consultation paper in October, we held a public “debate” event about potential options for the future. Speakers at the event included representatives from BPP University, the Chancery Bar Association, the Council of the Inns of Court (COIC), Northumbria University, and on behalf of the employed Bar, a speaker from HMRC. Each speaker argued in favour of a different approach for training barristers in the future.

Our consultation, launched in October, outlining different approaches for training generated an unprecedented level of interest and response, with over 1,100 respondents, including an open letter in support of the COIC/Bar Council model signed by over 500 barristers. The responses included those that we received when we held a series of “roadshows” around the country for students, barristers and legal academics to share their thoughts on the approaches with us.

The response that we received helped our Board make a final decision on some important issues at its meeting in March 2017. The Board’s decisions and the next steps are outlined in more detail in the “In Focus” panel the next page.

At the same time, the Board also agreed a Policy Statement setting out our vision for the future of Bar training. This is available to read on our website at: <https://www.barstandardsboard.org.uk/qualifying-as-a-barrister/future-bar-training/future-ways-to-qualify-as-a-barrister/>

As we move now onto the implementation phase of our “Future Bar Training” programme, we remain committed to transparency and engagement with everyone affected by the changes, and especially with students considering a career at the Bar in the future. We plan to communicate openly at every stage of the development of the new training approaches, and are happy to speak with anyone who has questions or concerns at any step of the way.



### **In focus: The Board's decision to authorise a limited number of future training routes for prospective students to qualify as barristers**

Following the consultation, the Board decided to authorise a limited number of future training routes for prospective students to qualify as barristers. One of these is likely to be the new training course, proposed by COIC and the Bar Council.

It was also decided:

- that the Bar should remain a graduate profession normally requiring at least a 2:2 classification;
- that we should continue to specify the seven foundation subjects which make up a qualifying law degree;
- that there is no need at present to change the law that defines a barrister as someone called to the Bar by one of the Inns of Court;
- that the Bar Course Aptitude Test should be retained; and
- that we should review the way in which Ethics is taught and assessed.

At the time of writing this Annual Report, we are preparing to publish an Authorisation Framework in consultation with stakeholders in order to assess all future training routes against the criteria of:

- flexibility (encouraging, for example, the options of part time study, distance learning and integration with paid work);
- accessibility (offering support to students from under-represented groups);
- affordability (improving the value for money of the present system); and
- sustaining high standards (so that consumers can be certain that every barrister who begins practice has met the requirements of the Professional Statement).

The rules and Authorisation Framework are expected to be formally in place during the 2018-19 academic year, but the timing of new courses being approved is reliant on providers coming forward with plans. Their proposals will all be assessed against the same criteria.

We believe that giving students an element of choice will be consistent with these principles, but agree with the many consultation respondents who argued that too many training options could cause confusion for prospective barristers and training providers, damage diversity and increase regulatory cost.

## Promoting equality and diversity

In February 2017, we published our new **Equality and Diversity Strategy** for 2017-2019. The Strategy document reports on our progress towards fulfilling our statutory objectives under the Equality Act 2010 both as an employer and as the regulator of barristers in England and Wales.

This work has important implications for access to justice and the legal system too, because the Bar needs to represent the diverse society it serves.

With this in mind, and at around the same time, we also published our annual report on **diversity at the Bar**. This showed that diversity is heading slowly in the right direction but that further progress is needed.

Some of the key findings from the report include:

- The practising Bar is still weighted towards males, with 63.4 per cent being men and 36.5 per cent being women. However, the percentage of women increased by 0.6 percentage points during 2016;
- The percentage of Black and Minority Ethnic (BME) practising barristers has increased by 0.2 percentage points since 2015. 12.7 per cent of the practising Bar is now BME;
- Male QCs still outnumber female QCs, however the percentage of female QCs increased by 0.7 percentage points during 2016. 13.7 per cent are female, while 86.3 per cent are male;
- The percentage of BME QCs is broadly unchanged having increased by only 0.1 percentage points in 2016 with 6.4 per cent being BME and 90.1 per cent being white (the remainder did not disclose their ethnicity); and
- The gender and ethnic diversity of pupil barristers is roughly in line with the population of England and Wales, with 51.3 per cent of pupils being female and 16.3 per cent being BME.

You can read our Equality and Diversity Strategy on our website at: <https://www.barstandardsboard.org.uk/about-bar-standards-board/equality-and-diversity/equality-strategy-2017-19/>

One aspect of equality that did demand our attention and action in 2016, was the publication of our survey findings about **women's experiences at the Bar**.

The survey was sent to all currently practising female barristers. It was completed by 1,333 respondents - almost a quarter of women at the Bar. The profile of respondents was representative of the overall population on most key indicators such as ethnicity, age and year of call.

Although the report found a number of examples of good practice and clear evidence of progress in some areas, it showed the need to address areas where women can face unfair treatment such as harassment, discrimination, work allocation, flexible working and returning from maternity leave. In particular, the survey found that:

- two in every five respondents said they had suffered harassment at the Bar, with only a small proportion (one in five) reporting it;
- more than two in every five respondents stated they had experienced discrimination, again with only one in five reporting it;
- experiences of flexible working arrangements appear to be mixed. For many, flexible working works well, but others raised issues that had led to a negative impact on their practice (such as an impact on work allocation or progression) or had prevented them from flexible working in the first place; and
- many respondents felt that taking maternity/parental leave had had a negative impact upon their practice, with impacts on work allocation, progression and income highlighted.

As a result of the survey findings, we wrote to every multi-tenant barristers' chambers to seek their help in addressing these issues and to improve compliance with our Equality Rules.

The report concluded that the experiences of women at the Bar are significantly better in chambers where the policies which our Equality Rules require have been put in place following proper consultation and where everyone is aware of them.

The survey findings and the action necessary to eliminate unfair treatment of women and to improve the retention of women at the Bar are reflected in the objectives of our new Equality and Diversity strategy.

Finally with regard to equality and diversity, we sought views on whether or not self-employed barristers should enjoy similar rights to parental leave as employed barristers, when we published a consultation in November.

We have since proposed that chambers should make shared **parental leave** arrangements for self-employed barristers. We believe making our parental leave rules more flexible could enable the self-employed Bar to retain female barristers and improve diversity within the profession.

## Supporting innovation at the Bar

Two of our Regulatory Objectives are: promoting competition in the provision of services; and encouraging an independent, strong, diverse and effective legal profession.

One of our roles as the regulator is to enable barristers who want to innovate to do so. We do this by having flexible regulatory arrangements. This was one of the main driving forces when we introduced the BSB Handbook back in 2014: to provide a less prescriptive, more outcomes-focused set of rules governing barristers' professional conduct.

But we cannot afford to rest on our laurels, and as a regulator, we must keep an eye on the future to enable the Bar to remain competitive and to continue to provide the high quality, cost-effective legal services demanded by the public. With this in mind, in September, we launched a survey for barristers about **the future delivery of legal services**.

The survey found that while there are examples of "new and innovative" business models in the market, the prevailing business model for barristers is a traditional chambers.

Furthermore, the barristers who responded to the survey do not necessarily feel the need for a new approach to the delivery of legal services with, for example, only 8% saying that they plan to change the way they receive instructions.

Given that the survey also found that, generally speaking, the traditional chambers business model for barristers is not, in itself, a barrier to innovation, we will consider what – if any – further action is necessary from us as a result of the survey.

The LSA 2007 was premised on the idea that allowing barristers and other lawyers to jointly own and manage **Alternative Business Structures (ABS)** with non-lawyers could open up the market for legal services and encourage competition. The Act enables us – and other legal regulators – to authorise ABSs and other entities. We have been authorising entities - bodies fully owned and managed by authorised individuals, i.e, lawyers with current practising certificates – since 2015. By the end of March 2017, we were authorising 67 entities. However, shortly after the reporting period covered by this report, on 3 April 2017, we started authorising ABSs too. This followed the necessary approval being granted by Parliament.

Although we are cautious about the number of ABSs that may choose to be regulated by us, we believe this development encourages further innovation in the provision of legal services. Being a specialist in regulating advocacy-based services, our ability to authorise ABSs allows barristers and other lawyers to partner with other business professionals to bring new skills and fresh perspectives to this sector of the market.

Over the course of the year, we have also been undertaking a wide-ranging review of our **Public and Licensed Access Schemes**. These schemes allow members of the public and other lay clients to instruct barristers directly without first instructing a solicitor or other intermediary. We shall be introducing new rules to improve these schemes – especially for the Licensed Access Scheme – during 2017-18.

### **Responding to the Competition and Markets Authority's (CMA's) market study into the provision of legal services**

In December, the CMA published its much-anticipated report into the operation of the **market for legal services in England and Wales**. Please see the "In Focus" panel on the next page for a brief overview of the main CMA findings.

We welcomed the findings, pointing out that improving access to justice, promoting the interests of consumers and promoting competition in the provision of legal services are key objectives for all legal regulators. We also committed ourselves to working collaboratively with our regulated community of barristers when considering our response.

Since the report's publication, we have been working closely with the other legal regulators in order to respond collectively to the CMA. This response was published in June 2017, so therefore falls outside the period covered by this Annual Report. Needless to say, our response and the implementation of any agreed actions to address the CMA's concerns are a high priority for us in our 2017-18 Business Plan.

The CMA has raised some important issues and, in the public interest, we are looking forward to addressing them.



### In focus: Overview of the CMA market study into the provision of legal services

The CMA concluded that competition in legal services for individual consumers and small businesses is not working well. In particular, it found that there is not enough information available on price, quality and service to help those who need legal support choose the best option.

The study observed that obtaining the right service and good value can therefore be challenging as consumers can face wide variations in the cost of similar services. They can also struggle to find enough information to help them identify their legal need in the first place.

The CMA set out a package of measures which challenged us – with the other frontline legal regulators and the Legal Services Board – and providers to help customers better navigate the market and get value for money.

These measures include:

- a requirement on providers to display information on price, service, redress and regulatory status to help potential customers. This would include publishing pricing information for particular services online;
- revamping and promoting the existing Legal Choices website to be a starting point for customers needing help, information and guidance on how to navigate the market and purchase services;
- facilitating the development of comparison sites and other intermediaries to allow customers to compare providers in one place by making data already collected by regulators available;
- encouraging legal service providers to engage with feedback and review platforms to ensure that customers can benefit from the experience of others before making their choice; and
- recommending that the Ministry of Justice looks at whether to extend protection from existing redress schemes to customers using ‘unauthorised’ providers.

In addition, as part of the study, the CMA also recommended that the Ministry of Justice review the current legal regulatory framework to make it more flexible and targeted at protecting consumers in areas where it is most needed. They also recommended that the Ministry of Justice carries out its planned review on the independence of regulators both from the profession and from government as soon as possible.

The full CMA report can be found on their website at: <https://www.gov.uk/government/news/cma-demands-greater-transparency-from-legal-service-providers>

## Delivering value for money

During 2016-17, a number of changes were made to the way in which we are governed and the way in which we work. These are designed to make our operations as efficient as possible and deliver value for money for those who fund us. You can review the financial effects of these changes by reading about our financial performance during 2016-17 on page 35 of this Report.

The first series of changes affected our **governance arrangements**, when in January 2017, our Board agreed a new set of governance principles, and to simplify a lot of our decision-making processes.

The principles clarify how we make decisions, our governance structures and how we gather expert input to inform our work. They confirm that the Board continues to have overall oversight within our new governance structure. The principles also confirm our commitment to independence and openness, effectiveness, and our duty to promote Equality and Diversity.

Our ongoing governance reforms have seen a reduction in both the number of committees and the number of their members. The new approach requires more executive-led policy development and decision making.

To support this, in 2016, we established our new Advisory Pool of Experts (APEX). APEX is a group of external and independent experts, including a number of barristers, who may be called upon to provide specialist advice in areas of our work where an in-depth or more independent view is needed. The formation of APEX is designed to complement our move towards more staff-led decision-making.

You can read more about our governance principles in our Governance Manual on our website at: [https://www.barstandardsboard.org.uk/media/1818312/governance\\_manual\\_\\_march\\_2017.pdf](https://www.barstandardsboard.org.uk/media/1818312/governance_manual__march_2017.pdf)

Another area of change designed to save money in the longer term, and that was implemented during 2016-17, is our **Work Smart programme**.

Work Smart is our flexible working programme for staff. It enables our employees to work remotely and without the need to be based full-time in our offices. The programme has been implemented ahead of the General Council of the Bar's likely office move expected in 2018. The introduction of smarter, more flexible working arrangements for staff will enable us to relocate to an office with a smaller footprint, and therefore, to save money.

To date, Work Smart has been a success and staff feedback has been positive.

Finally, thanks to our shared Information Systems resources with the Bar Council, we were involved with them during 2016-17 in preparing a major overhaul of our **Information Management systems**. We expect the benefits of this joint project to be seen during 2017-18. There will be benefits for barristers as well as for us in terms of efficiencies in some of our critical business and regulatory processes. A new self-service portal for barristers will be launched later this year called "My Bar". It will be the new way for barristers to access information from us and from the Bar Council. It will enable them to manage all of their subscriptions, applications, authorisations and event bookings with us and with their representative body.

## 2016-17: What we said we would do and what we delivered

The table below shows the commitments that we made in our 2016-17 Business Plan against a short update of the progress we made during the year.

### Strategic Programme 1 – Regulating in the public interest

Activity:	Progress:
<b>Consumer engagement</b> – review and refresh strategy	<ul style="list-style-type: none"> <li>• New strategy approved</li> <li>• Increased focus on consumer engagement at an early stage of policy development</li> <li>• Continued input with other legal regulators to the Legal Choices website</li> </ul>
<b>Research</b> – scope and conduct demand side research	<ul style="list-style-type: none"> <li>• We commissioned IRN Research, an independent research agency working in the legal services sector, to undertake research into the experiences of barristers' clients in family law cases.</li> <li>• The research aimed to understand the experience of legal services among clients of family law barristers in relation to access and quality of service and identify the key barriers and risks that face clients of family law barristers</li> <li>• This research is complete and was published in July 2017</li> </ul>
<b>Stakeholder engagement</b> – map stakeholders and develop strategy	<ul style="list-style-type: none"> <li>• Mapping exercise completed and new strategy approved</li> <li>• Increased focus on stakeholder engagement at an early stage of policy development in order to seek views and raise awareness</li> <li>• 30 stakeholder events, including CPD and FBT events, with over 1,100 registrations</li> </ul>
<b>Independent regulatory decision making</b> – agree new governance principles and implement new Qualifications Committee decision-making governance	<ul style="list-style-type: none"> <li>• Revised governance principles agreed in January 2017</li> <li>• New decision-making arrangements agreed for decisions previously made by the Qualifications Committee</li> <li>• Qualifications Committee to be disbanded from August 2017</li> </ul>

Table continues overleaf

**International work** – review and scope current arrangements

- We have undertaken a review of our work in relation to the international aspects of our role as the Bar’s regulator. This has resulted in a protocol modelled on the protocol for regulatory independence, outlining the respective roles of the BSB and the Bar Council. It has now been agreed with the Bar Council
- This will ensure that we are able to exercise our regulatory functions where necessary in the international arena, independently of the Bar Council (for example, where Codes of Practice or other standards are being discussed at international meetings)

**Disciplinary system** – review contractual arrangements for tribunals

- Contract with BTAS renewed
- Revised disciplinary tribunal regulations to be introduced in 2017-18

**Regulatory interventions** – Develop policy and processes for interventions

- Statutory powers of intervention for ABSs obtained on designation as a licensing authority
- Intervention powers for the rest of the regulated community are dependent on approval of an order under s69 of the Legal Services Act 2007. An Order has been agreed and consulted on – implementation dependent on approval of the Lord Chancellor and Parliament. We expect this to happen no earlier than October 2017

**We spent £2,361k on Strategic Programme 1, which is 48% of our direct costs**

## Strategic Programme 2 – Supporting barristers and those the BSB regulates to face the future

Activity:	Progress:
<p><b>Entity Regulation and Alternative Business Structures</b> – complete review of entity authorisation and start authorising ABSs</p>	<ul style="list-style-type: none"> <li>• Review of entity authorisation completed</li> <li>• 67 entities authorised as at 31 March 2017</li> <li>• Started licensing ABSs on 3 April 2017 following Parliamentary approval of the required Order</li> </ul>
<p><b>Scope of Practice and Employed Barrister rules (s15 LSA07)</b> – decide on narrow change to Employed Barrister rules and review the “Scope of Practice” rules</p>	<ul style="list-style-type: none"> <li>• We have agreed a rule change in relation to employed barristers in non-authorised bodies</li> <li>• This will enable these barristers to provide legal services to a wider range of clients in addition to their employer (where those clients are not entitled to complain to the Legal Ombudsman)</li> <li>• We are now pursuing a formal rule change with the Legal Services Board</li> <li>• We have undertaken scoping in relation to a wider review but the review itself has been postponed until 2018-19 owing to other priorities in the 2017-18 business year</li> </ul>
<p><b>Public Access</b> – review, consult and gain LSB approval for new Public and Licensed Access scheme rules</p>	<ul style="list-style-type: none"> <li>• Review of Public and Licensed Access schemes completed</li> <li>• Review found schemes are working well and providing valuable service to clients, but some improvements necessary</li> <li>• Consultation on rule changes delayed until 2017-18</li> </ul>
<p><b>Chambers’ governance</b> – Complete governance model research and act upon findings</p>	<ul style="list-style-type: none"> <li>• This research has been completed and was published on 30 May 2017. The key finding was that the majority of respondents saw no need for change to the traditional chambers model</li> <li>• The report is informing our approach to supervision of chambers</li> </ul>
<p><b>Professional Indemnity Insurance arrangements</b> – insurance market analysis and review of BMIF governance</p>	<ul style="list-style-type: none"> <li>• We agreed a memorandum of understanding with BMIF, following a review of governance arrangements</li> <li>• We also commissioned Oxera to undertake a review of the market for barrister PII. This comprehensive piece of work has informed a new project to review our PII arrangements, which will be completed in 2017</li> <li>• The decision on a rule change has therefore been postponed until September 2017, pending completion of the new project</li> </ul>

Table continues overleaf

<p><b>Immigration thematic review</b> – decide on options and recommendations</p>	<ul style="list-style-type: none"> <li>• Review completed and decisions made</li> <li>• Includes plans to improve guidance for clients and to develop a framework that barristers can use to assess and manage immigration client vulnerability</li> <li>• Implementation is happening as planned in 2017-18</li> </ul>
<p><b>Youth Courts</b> – decision on Youth Courts policy proposals</p>	<ul style="list-style-type: none"> <li>• Policy proposals agreed</li> <li>• Publication of new guidance for barristers working in youth proceedings based on a set of essential competences that are expected of all advocates working with young people</li> <li>• Compulsory registration for barristers practising in youth courts to be introduced, subject to consultation, during 2017-18</li> </ul>
<p><b>Quality Assurance Scheme for Advocates (QASA)</b> – Board decision on implementation</p>	<ul style="list-style-type: none"> <li>• Put on hold pending Ministry of Justice decision on defence panel scheme</li> </ul>
<p><b>Future Bar Training</b> – consult on training options and make decision on best approach</p>	<ul style="list-style-type: none"> <li>• Consultation took place and received a record level of engagement and responses</li> <li>• Board decision in March 2017 to authorise a limited number of future training routes for prospective students to qualify as barristers</li> <li>• Implementation to begin as planned during 2017-18</li> </ul>
<p><b>Continuing Professional Development</b> – consult on new CPD rules and roll-out new scheme</p>	<ul style="list-style-type: none"> <li>• Consultation on rule changes took place</li> <li>• Extensive engagement with the Bar to help them prepare for the new CPD scheme for established practitioners</li> <li>• New regime came into force on 1 January 2017</li> <li>• On-going support and advice provided to barristers on the new regime</li> </ul>
<p><b>Diversity</b> – publish Women at the Bar research, devise action plan and agree new Equality Objectives</p>	<ul style="list-style-type: none"> <li>• Women at the Bar research findings published</li> <li>• Action plan agreed to address unfair treatment of women at the Bar</li> <li>• New Equality Objectives and Equality and Diversity strategy published in February 2017</li> </ul>

**We spent £1,721k on Strategic Programme 2, which is 35% of our direct costs**

### Strategic Programme 3 – a strong and sustainable regulator

Activity:	Progress:
<b>Ministry of Justice consultation on regulatory independence</b> – respond to the consultation	<ul style="list-style-type: none"> <li>• The Ministry of Justice did not issue a consultation on regulatory independence during 2016-17</li> </ul>
<b>Assurance Framework</b> – agree and roll-out the Framework	<ul style="list-style-type: none"> <li>• An independent review of the assurance processes in high risk areas was undertaken. Processes and procedures for assurance were deemed robust and fit for purpose</li> <li>• The Independent Observer position was disestablished and the Board agreed to move forward with a tender for Internal Audit services in 2017-18</li> </ul>
<b>Board Governance</b> – recruit and induct for Independent Appointments Panel, implement a Board development strategy and recruit new Board members as required	<ul style="list-style-type: none"> <li>• Recruitment and induction for Independent Appointments Panel completed successfully</li> <li>• Board development strategy agreed</li> <li>• New Board members recruited and in place</li> </ul>
<b>Accessing Staff Potential in Inspiring Regulatory Excellence (ASPIRE)</b> – strengthen consumer engagement capability and capacity, and implement post Regulatory Standards Framework (RSF) assessment actions	<ul style="list-style-type: none"> <li>• Consumer engagement capability and capacity has been strengthened and embedded throughout policy development</li> <li>• Our approach to outcomes focused regulation has been strengthened by increased investment in research to give greater insight into clients' needs and embedding an evidence-based approach to policy development</li> <li>• Our risk programme continues to embed risk across all of the BSB's activities, with the creation of the risk forum to enable joined-up discussions about risk issues and improve consistency across the BSB</li> <li>• New set of governance principles agreed and first phase of governance changes implemented</li> </ul>
<b>Advisory Pool of Experts (APEX)</b> – recruit APEX members	<ul style="list-style-type: none"> <li>• APEX established with successful first recruitment round</li> </ul>
<b>HR strategy</b> – introduce new Learning and Development Strategy for staff	<ul style="list-style-type: none"> <li>• New Learning and Development Strategy for staff introduced</li> <li>• A new leadership and management training programme commenced during the year and continued into 2017-18</li> <li>• Staff received "plain English" training during 2016-17</li> </ul>

Table continues overleaf

**Risk-based Regulation –**  
launch Risk Outlook and complete prioritisation of risks in framework for decision-making

- Risk Outlook published in April 2016
- The Board discussed risk prioritisation at an away day in December 2016. Implementation of risk prioritisation will be considered further by the Board in Q1 of 2017-18

**Information Management Programme (IT strategy) –**  
Completion of the data foundation, management information, and business intelligence phases, implementation of ABS online tools, and completion of phase one for finance software

- Data foundation, management information and business intelligence phases completed as planned
- Online ABS authorisation tool completed and made live
- Phase one of finance software completed

**BSB future premises –** Board decision on preferred option for BSB premises

- High-level decisions made concerning search for future BSB premises
- Precise location to be sought during 2017-18

**We spent £836k on Strategic Programme 3, which is 17% of our direct costs**

# Our governance

We are led and governed by a Board made up of 15 people. The Board has a non-barrister majority and a non-barrister Chair. The Board met 12 times during the year: there were 9 ordinary meetings, one special meeting on Future Bar Training, and two Away Days.

During 2016-17, the following people sat on our Board:

**Chair:**

Sir Andrew Burns KCMG

**Vice-Chair:**

Naomi Ellenbogen QC

**Barrister Members:**

Aidan Christie QC

Justine Davidge

Judith Farbey QC

Andrew Mitchell QC

Adam Solomon

Anupama Thompson

**Lay Members:**

Alison Allden OBE (from 1 January 2017)

Rolande Anderson

Rob Behrens CBE (resigned wef 31 March 2017)

Dr Malcolm Cohen JP (until 31 December 2016)

Steven Haines (from 1 January 2017)

Zoe McLeod (from 1 January 2017)

Tim Robinson (until 31 December 2016)

Prof Andrew Sanders (until 31 December 2016)

Nicola Sawford

Dr Anne Wright CBE

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

Keith Baldwin (until 31 December 2016)

Emily Windsor (until 31 December 2016)

## Accountability

Under the Legal Services Act 2007 (LSA07), the LSB is responsible for overseeing the approved regulators for legal services in England and Wales. The approved regulator for barristers is the General Council of the Bar (GCB), which is also the representative body for the Bar. The LSA07 requires the separation of regulatory and representative activities so the GCB has established the Bar Standards Board to exercise its regulatory functions independently. We have a protocol in place with the GCB to ensure that the professional body's representative functions do not exert undue influence over the regulatory functions.

We independently control our allocated resources, and our operations are monitored quarterly by the Planning, Resources and Performance (PRP) Committee and then reported to the Board. The Committee also helps develop our strategic and business plans and oversees performance monitoring.

The Governance, Risk and Audit (GRA) Committee is responsible for ensuring the maintenance of good governance standards and internal control processes and advises the Board on the corporate risk management framework. The Director General 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 our Senior Management Team, GRA Committee and the Board as set out in the Risk Management policy. In addition, the GRA Committee conducts an in-depth risk review at each meeting.

The lay Independent Observer, Isobel Leaviss, provided independent assurance that our enforcement system was operating in line with its aims and objectives, until that role was dissolved as part of our governance review at the end of 2016. In 2017/18 we will appoint internal auditors to provide independent assessment of our assurance processes..

# Our income and expenditure

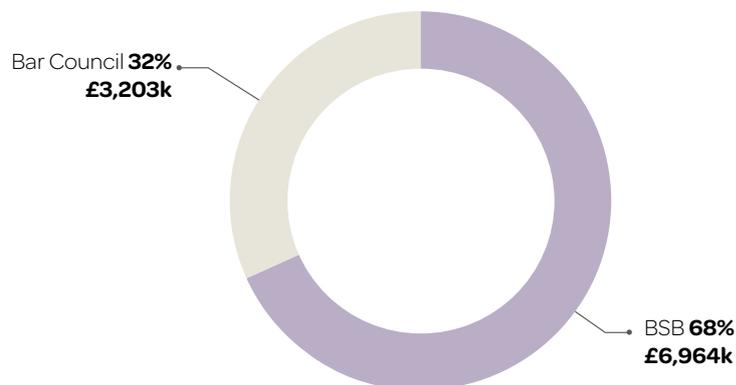
Our budget year ran from 1 April 2016 to 31 March 2017. The Bar Council and BSB's full financial statements can be found on the Bar Council's website (normally published in September).

## Income

Part of our income comes from charges we levy for services we provide, described below as 'directly controlled'. This includes the fees from Bar Professional Training Course (BPTC) providers, the Bar Transfer Test (BTT) and other charges. The remainder of the BSB's funding is income derived from the Practising Certificate together with a share of contributions from the Inns of Court. These two income streams are not directly controlled by the BSB.

A proportion of the PCF is spent on regulation by us and a proportion is spent by the Bar Council on some of its functions (as permitted under s51 of the LSA07).

### Allocation of PCF between Bar Council and BSB



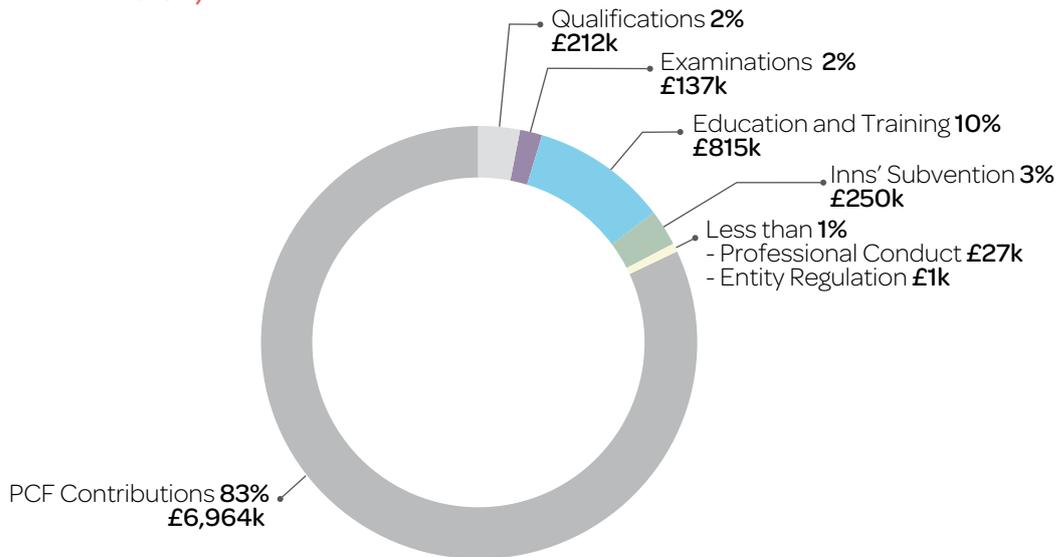
### Income directly controlled by the BSB

	£K
Examinations (including BCAT)	137
Education and Training (including BPTC, BTT and CPD accreditation)	815
Qualifications	212
Entity Regulation	1
Professional Conduct (fines and cost recovery)	27
<b>Total BSB generated income</b>	<b>1,192</b>

### Income not directly controlled by the BSB

PCF contributions	6,964
Inns' Subvention	250
<b>Total income not directly controlled by the BSB</b>	<b>7,214</b>
<b>Total regulatory income</b>	<b>8,406</b>

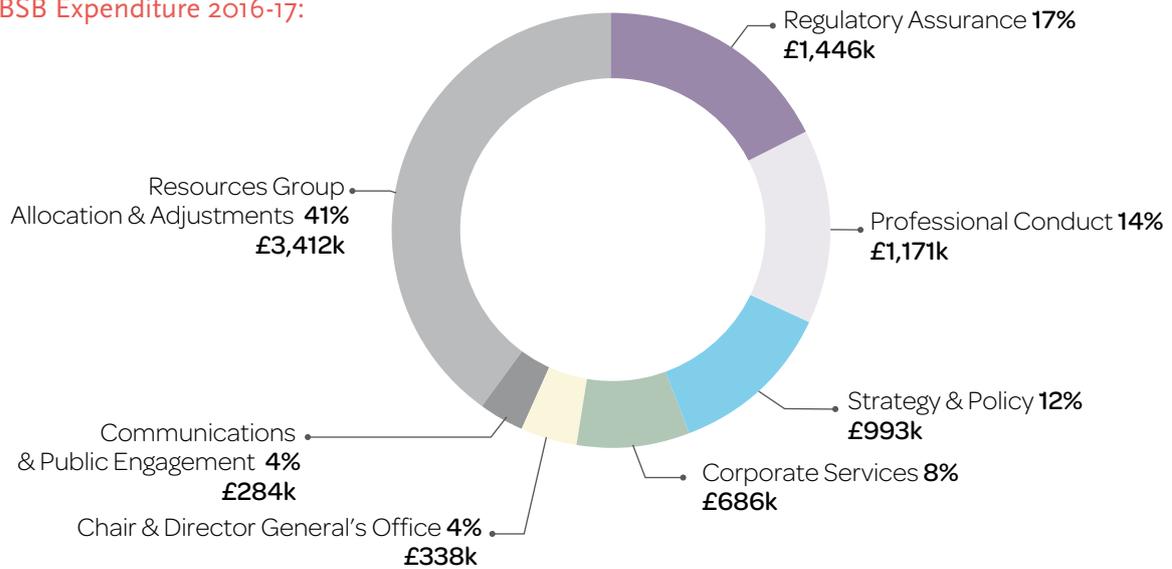
## BSB Income 2016-17:



## Expenditure

The BSB directly controlled expenditure was £4,918k against a year end forecast of £5,196k, a £278k (6%) underspend. This does not reflect the full cost of regulation as we must also include an allocation of shared costs (IT, Finance and HR including a share of premises cost) from the Bar Council Resources Group. The Resources Group budget is managed separately, outside the direct control of the BSB and is apportioned to the organisation.

Department	£K
Regulatory Assurance	1,446
Examinations	345
Qualifications	231
Entity Regulation and ABS	86
Supervision (Pre Qualification)	345
Supervision (Post Qualification)	439
Professional Conduct	1,171
Strategy and Policy	993
Corporate Services	686
Chair and Director General's Office	338
Communications and Public Engagement	284
<b>Total BSB Expenditure</b>	<b>4,918</b>
<b>Resources Group allocation &amp; adjustments</b>	<b>3,412</b>
Total cost of regulation	8,330
Surplus	76

**BSB Expenditure 2016-17:****Commentary on 2016-17 budget performance****Income**

Our initial budget for BCAT and BPTC income was set conservatively, based on the assumption that the Future Bar Training programme might lead to more students deferring enrolment. We budgeted for 1200 students and had over 1,423 students register for the BPTC in 2016-17.

**Expenditure****Staff costs**

Higher than expected staff turnover has resulted in a saving on direct staff costs across the BSB of approximately £270k (5%) which has been offset in part by overspend in recruitment costs of £23k and other staffing related costs.

Overall there was a total underspend of £227k (5%) on staff related expenditure.

**Non-staff costs**

Training and development costs were more than initially budgeted. This is primarily due to the delivery of a leadership and management programme where the cost was more than originally budgeted. However, a decision was made that it still offered good value for money and supported the governance changes that have been made across the BSB.

Originally we had planned to manage governance recruitment for the Board and Committee members in house. However, due to resource constraints we were unable to do so and there was an overspend in this area. After a tendering exercise we have partnered with a new recruitment specialist in order to realise value for money savings in subsequent years.

The budget for enforcement (Professional Conduct Department) activity was formulated based on previous years' activity and trend analysis. It was thought that the number and complexity of cases would increase over time. The budget for out-sourced casework and legal fees was increased to reflect this. This was not the case during the year and actual expenditure was underspent in this area.

Our research costs were higher than was originally budgeted. This was primarily related to a single piece of research on Professional Indemnity Insurance and Competition Law that was over the original allocated budget due to the nature of the expertise required. We successfully managed the pressures caused by this overspend and were able to make requisite savings in other areas.



### **In focus: Monitoring Expenditure**

Since our inception we have always lived within our direct operating expenditure budgets. We pay close attention to what we spend our money on:

- Our budgets are set annually and our budget envelopes are informed by our business plans;
- The budget is divided up into departmental budgets which our Directors look after;
- Each month we receive management accounting reports which enable us to keep a close eye on our business;
- Each quarter we think about what we might need to spend in the future and produce forecasts;
- We tightly monitor our largest area of spend which is our staffing costs;
- We make sure that our resources are directed at our biggest priorities; and
- Our financial performance is scrutinised by our Planning, Resources and Performance Committee, and it is also reported to the Board in public session.

### **Legal Services Board's standard cost of regulation**

A schedule containing information about our cost of regulation, as defined by the Legal Services Board, is available on our website.

# Remuneration and expenses

	Salary / Fees	Pension	Expenses	Allowance
Sir Andrew Burns KCMG – (Chair)	£89,264	–	£1,083	–
Naomi Ellenbogen QC – (Vice-Chair)	£35,858	£712	£215	–
Aidan Christie QC	–	–	–	–
Justine Davidge	–	–	£651	–
Judith Farbey QC	–	–	–	–
Andrew Mitchell QC	–	–	–	–
Adam Solomon	–	–	–	–
Anupama Thompson	–	–	–	–
Alison Allden OBE	£2,310	–	£137	–
Rolande Anderson	£9,230	–	£23	–
Rob Behrens CBE (resigned wef 31 March 2017)	£9,230	–	–	–
Dr Malcolm Cohen JP (until 31 December 2016)	£6,923	–	–	–
Steven Haines (from 1 January 2017)	£2,310	–	–	–
Zoe McLeod (from 1 January 2017)	£2,310	–	–	–
Tim Robinson (until 31 December 2016)	£6,923	–	£471	–
Prof Andrew Sanders (until 31 December 2016)	£6,923	–	£1,325	–
Nicola Sawford	£9,230	–	–	–
Dr Anne Wright CBE	£9,230	–	–	–
Keith Baldwin (Special Advisor until 31 December 2016)	£9,230	–	£534	–
Emily Windsor (Special Advisor until 31 December 2016)	–	–	–	–
Dr Vanessa Davies (Director General)	£138,268	£19,358	£2,614	£1,300

## Notes:

- Barrister Board members are not paid salaries (apart from the Vice-Chair).
- Board member positions do not attract a pension (apart from the Chair and Vice-Chair).
- Expenses include travel and subsistence costs.
- International travel expenses were incurred by the Chair and Director General (International Conference of Legal Regulators in Washington DC).
- Special Advisors received fees, not salaries.
- Fees and expenses paid for attendance at BSB committee meetings by non-Board committee members are not included here.
- All staff members receive an allowance of £1,300 in addition to basic salary.

# Our organisational values

The way in which we undertake our work is very important to us. We do this by adhering to a number of organisational values. These are:

## Integrity

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

## 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

## 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:

Bar Standards Board  
289-293 High Holborn  
London WC1V 7HZ

**DX:** 240 LDE

**Tel:** 020 7611 1444

**Fax:** 020 7831 9217

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

[www.barstandardsboard.org.uk](http://www.barstandardsboard.org.uk)

**Twitter:** [@barstandards](https://twitter.com/barstandards)

[www.linkedin.com/company/the-bar-standards-board](http://www.linkedin.com/company/the-bar-standards-board)