

Business Plan

2021-2022

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

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Foreword by the Chair



I am pleased to introduce the Bar Standards Board's (BSB's) Business Plan for 2021-22.

We know that everyone working at the Bar continues to

face unprecedented challenges. Like many organisations, the coronavirus pandemic has had a significant effect on our work. For a number of reasons explained in this Plan, it has also reduced our capacity as we move into 2021-22, so in developing our Business Plan for the year ahead, we have had to strike a realistic balance between what we would like to do and what we are capable of delivering.

In 2021-22, we will continue to prioritise our core, day-to-day regulatory work which includes overseeing the education and training requirements for becoming a barrister, monitoring the standards of conduct of barristers and compliance with the rules in our Handbook, including the new transparency rules, and ensuring that everyone we authorise to practise is competent to do so. Where necessary, that will also mean temporarily putting on hold some of our longer-term policy development projects. We want to be certain that we have the resource and focus to undertake our core regulatory activities to the standard expected of us.

The policy development which will remain important includes continuing our work to raise standards at the Bar; completing the final implementation of our Bar training reforms; working with the Bar Tribunals Adjudication Service to review their Sanctions Guidance; and promoting equality and access to justice including tackling bullying, discrimination and harassment at the Bar.

This is the third and final year of our [2019-22 Strategic Plan](#). Our focus over this period has also been to ensure that our recent policy initiatives, such as our reforms to the rules governing Bar training and to our disciplinary and enforcement processes, have been successfully implemented and evaluated. This remains the case despite the effects of the pandemic.

This Business Plan outlines the specific activities that we will undertake during 2021-22 against each of our strategic aims.

Our budget for the year ahead reflects our prudent approach to financial management during a time when the health emergency has had a serious effect on the incomes of many of the barristers who fund us. The budget for 2020-21 is £6,948k. In addition, we contribute £3,871k to the common services (such as IT and Finance) which we share with the Bar Council.

You will be able to read more about how we performed against this Business Plan in our 2022 Annual Report.

Baroness Blackstone, Chair of The Bar Standards Board

Introduction

In this section, we have listed our planned activities in 2021-22 under our three Strategic Aims for this period. These aims are:

- delivering risk-based, targeted and effective regulation;
- encouraging an independent, strong, diverse and effective legal profession; and
- advancing access to justice in a changing market.

You can read more about these aims in our [2019-22 Strategic Plan](#) which explains why we have them and the outcomes which we hope to achieve by the end of this strategic period.

[Our website](#) and the Strategic Plan also explain how our regulatory priorities are set by conducting a risk-based analysis of the market for barristers' services. Our [2019 Risk Outlook](#) describes the key risk themes which we have identified and which our regulatory activities – including those described in this Business Plan – are designed to address. The risk themes in the Outlook are:

- working cultures and professional environment inhibit an independent, strong, diverse and effective profession;
- innovation and disruption in the legal services market offer threats and opportunities for the profession and for the public; and
- the public's access to justice is threatened by affordability constraints and by the complexity and lack of transparency of legal services.

Clearly, the risks facing the profession and within the legal services market look significantly different now given the coronavirus pandemic and this year's Business Plan reflects this.

In this Plan, we have listed our core regulatory activities which we conduct every year as well as providing an overview of the specific policy, and other, work which we will carry out this year. Our focus in 2021-22 will be to deliver our core regulatory work effectively and efficiently in the public interest.

As the regulator of the Bar in England and Wales, our core "business-as-usual" activities include:

- overseeing the education and training requirements for becoming a barrister in line with the new Bar Qualification Rules which we introduced in April 2019;
- monitoring the standards of conduct of barristers; and
- ensuring that everyone we authorise to practise is competent to do so.

We do this by supervising the practice of barristers and the specialist legal services businesses whom we regulate. We deal with any information we receive which might indicate that those we regulate may not be following our rules and where necessary, we take appropriate regulatory action.

This day-to-day core work accounts for most of what we do, so it is important that we undertake this work effectively and efficiently in the public interest.

For a number of reasons, the health emergency has left us in a position of reduced capacity. These reasons include an increase in work as a direct result of the pandemic such as having to administer more exam sittings and having to process more authorisation waivers from a profession also coping with the impact of the health emergency. We have also seen a reduction in available staff resource due to increased sickness and staff having to balance work and caring responsibilities.

So, when developing this Plan for 2021-22, we needed to be certain that we had the resources to undertake these core day-to-day regulatory activities and to deliver them to a high standard. This meant that we had to think carefully about which of our policy development projects were the most urgent and to make some difficult decisions about those which we are going to prioritise this year. The key projects which we are going to undertake this year include:

- continuing our work to raise standards at the Bar. This will include implementing targeted regulation to improve standards of advocacy in Coroners' Courts, looking at how we can improve flows of evidence from the judiciary and others about areas of concern, and how we can improve feedback to individual barristers from a range of stakeholders to inform their self-reflection and continuing professional development;
- continuing to challenge the Bar to promote anti-racism and to tackle discriminatory practices, including by ensuring that barristers' practices have completed the four important actions we asked them to undertake in [our recent Anti-racist Statement](#);
- delivering a robust regulatory approach to tackle bullying, discrimination and harassment within the profession;

- working alongside the profession to ensure there remain sufficient opportunities for students to progress to the work-based learning component of training in light of [the fall in the number of pupillages registered in 2020](#) due to the pandemic;
- completing our work to implement [fully the new Bar Qualification Rules](#) including the introduction of new centralised assessments to take place during pupillage, and to learn the lessons identified by the independent review into the August 2020 exams;
- reviewing the role and effectiveness of the Bar Course Aptitude Test (BCAT) in ensuring that those considering Bar training courses have the aptitude to succeed;
- analysing the responses we received from the 2020 Regulatory Return, following up where necessary with individual practices and determining appropriate regulatory policy action for the future depending on what trends the returns might show;
- continuing our review of the Code of Conduct for barristers (formerly referred to in our Business Plans as a review of the full BSB Handbook, but now only constituting a review of the Code), although this will now proceed more slowly; and
- preparing to publish our next three-year Strategic Plan for 2022-25.

As well as having a three-year Strategic Plan, we also have a dedicated [Equality and Diversity Strategy](#) in which we report 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 document also sets out our Equality and Diversity objectives.

This Business Plan also provides information about how we are governed and outlines our planned income and expenditure for 2021-22. This shows that the cost of regulation in 2021-22, including our share of the costs of services which we share with the Bar Council, is currently planned to be £11,729k. For comparison, the cost of regulation in 2020-21 was £11,885k. This figure for 2020-21 differs from that published last year as it has been revised to include our capital expenditure (as does the figure for the 2021-22 year, so that they are directly comparable).

Our income and expenditure for the 2021-22 year leaves us with a deficit of £2,009k, given our forecasts of reduced income. Our expenditure in 2021-22 will therefore be funded through the PCF collection along with use of reserves (supplemented by a Coronavirus Business Interruption Loan Scheme (CBILS) loan).

Activities for 2021-22

The work which we plan to undertake during 2021-22 can be categorised into the **core regulatory activities** which our role as the regulator of barristers in England and Wales requires us to do on a day-to-day basis, and the **policy and other project work** which we will complete in order either to improve the way in which we regulate or to review, evaluate and, where necessary, change our rules.

Each of these activities has been listed under one of our three Strategic Aims, so that you can see what we are doing to help us achieve each aim. They are categorised under the strategic aim to which they primarily relate, but some might also contribute to the achievement of desired outcomes under another strategic aim.

Unlike in previous Business Plans, this year we have not published any quarterly milestones. This is partly because of the strong focus on core regulatory activities which by their very nature happen throughout the year, and also because we expect to be flexible with our allocation of resources in the light of the uncertainty of knowing if, how, and how quickly the country and the profession will recover from lockdown.

Previously announced regulatory project work which is not mentioned in this Plan has not been abandoned. If capacity permits this year, or if we are able to engage additional resource, it will be conducted around the activities listed within this Plan. Otherwise, it will be undertaken in subsequent years.

Strategic Aim 1 – Delivering risk-based, effective and targeted regulation

The core work that we will conduct through the year:

- authorising organisations that provide the vocational and work-based learning components of Bar training and managing our relationship with them;
- authorising business entities (legal services businesses owned and managed by lawyers or owned and managed by lawyers and non-lawyers);
- managing centralised examinations;
- assessing and authorising applications for waivers and exemptions, and applications from transferring qualified lawyers;
- assessing all the incoming information we receive to determine whether regulatory action is required to address risks to the regulatory objectives;
- proactively supervising those whom we regulate, including considering the information we receive about them;
- investigating allegations of breaches of the professional obligations within the BSB Handbook and taking enforcement action where necessary;
- reporting data and statistics on regulatory decision making;
- fulfilling our duties under the Money Laundering and Terrorist Funding Regulations;
- monitoring and reporting on our performance as a regulator to ensure that we are efficient and effective;
- communicating and engaging with stakeholders; and

- regularly reviewing and reporting to the Board about our evidence of changing risk in the market. We use this to understand how to prioritise our work as a regulator and to look for ways to continuously improve.

The policy development or other activity that we will undertake this year:

- completing our work to implement fully the new Bar Qualification Rules introduced in 2019 including the introduction of new centralised assessments to take place during pupillage;
- implementing the recommendations identified in the report of the independent review into the August 2020 exams;
- reviewing the role and effectiveness of the Bar Course Aptitude Test (BCAT) in ensuring that those undertaking Bar Training Courses have the aptitude to succeed on the course, and if relevant, to implement any changes in time for student applications in 2022;
- engaging with students and other stakeholders in order to continue our ongoing evaluation of the impacts of our recent reforms to Bar training;
- evaluating the effectiveness of the changes we introduced in 2019 to modernise our decision making;
- setting up an independent evaluation of our corporate governance and considering any improvements proposed along with any suggestions from the recent review of our governance by the Legal Services Board;

- consulting on our work to consider the appropriate scope of regulation of barristers' non-professional life;
- working with BTAS to review the Sanctions Guidance which is used by disciplinary tribunals;
- implementing our internally-focused initiatives to understand better the working culture within the BSB and to improve learning and development;
- developing and publishing our Strategic Plan for 2022-25; and
- as capacity permits, continuing our work to simplify the Code of Conduct for barristers, to make sure that it remains fit for purpose and to ensure that any future changes to the Code are evolutionary rather than revolutionary.

The table below shows which of our planned policy development activities under Strategic Aim 1 relate to which of our Regulatory Objectives. Our core day-to-day regulatory work spans all the Regulatory Objectives.

The Regulatory Objectives								
Our planned policy development work in 2021-22	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	Promoting and maintaining adherence to the professionals principles
Completing our work to implement fully the new Bar Qualification Rules	●		●	●	●	●		●
Implementing the recommendations identified in the report of the independent review into the August 2020 exams	●			●		●		
Reviewing the role and effectiveness of the Bar Course Aptitude Test (BCAT)	●					●		
Engaging with students and other stakeholders in order to continue our ongoing evaluation of the impacts of our recent reforms to Bar training	●		●		●	●		●
Evaluating the effectiveness of the changes we introduced in 2019 to modernise our decision making	●	●		●		●		●
Setting up an independent evaluation of our corporate governance and considering any improvements proposed by the Legal Services Board	●	●	●	●	●	●	●	●
Consulting on our work to consider the appropriate scope of regulation of barristers' non-professional life	●			●		●		●
Working with BTAS to review the Sanctions Guidance which is used by disciplinary tribunals	●			●		●		●
Continuing our work to simplify the Code of Conduct for barristers	●	●	●	●	●	●	●	●

Strategic Aim 2 – Encouraging an independent, strong, diverse and effective legal profession

The core work that we will conduct through the year:

- collecting and publishing diversity data on the profession;
- supervising barristers' practices;
- working with others to understand the factors that influence diversity within the profession;
- undertaking research activity to improve understanding of the legal services market and the impact on the market of BSB regulation; and
- monitoring barristers' Continuing Professional Development (CPD).

The policy development or other activity that we will undertake this year:

- working alongside the profession to ensure the future of pupillage in light of the fall in the number of pupillages registered in 2020 due to the pandemic;
- continuing our work to raise standards at the Bar by reviewing how we can improve flows of evidence from the judiciary and others about areas of concern, and how we can improve feedback to individual barristers from a range of stakeholders to inform their self-reflection and continuing professional development;
- implementing our joint work with the Solicitors Regulation Authority in relation to advocacy within the Coroners' Courts including publishing expected competences and a toolkit of resources for barristers (and other legal professionals) who undertake this work;

- scoping our work in relation to our regulation of barristers in their early years of practice to assure their competence and their continuing professional development – work which amongst other things may result in future years in changes to Continuing Professional Development (CPD) for newly qualified practitioners;
- continuing to challenge the Bar to promote anti-racism and to tackle discriminatory practices, including by ensuring that barristers' practices have completed the four important actions we asked them to undertake in our recent [Anti-racist Statement](#) and where necessary to work with practices to make sure their commitments in this area are met;
- working alongside stakeholders to deliver robust improvements to our regulatory approach in tackling bullying, discrimination and harassment at the Bar;
- analysing the responses we received from the 2020 Regulatory Return, following up where necessary with individual practices, and determining appropriate regulatory policy action for the future depending on what trends the Returns might show; and
- as capacity permits, continuing our review of the Equality Rules within the BSB Handbook to ensure that they remain fit for the purpose of delivering the equality and diversity objectives for the profession as a whole.

The table below shows which of our planned policy development activities under Strategic Aim 2 relate to which of our Regulatory Objectives. Our core day-to-day regulatory work spans all the Regulatory Objectives.

The Regulatory Objectives								
Our planned policy development work in 2021-22	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	Promoting and maintaining adherence to the professionals' principles
Working alongside the profession to ensure the future of pupillage in light of the fall in the number of pupillages registered in 2020	●		●	●	●	●		
Continuing our work to raise standards at the Bar by reviewing how we can improve flows of evidence from the judiciary and others about areas of concern	●	●	●	●	●	●		●
Implementing our joint work with the SRA in relation to advocacy within the Coroners' Courts	●	●	●	●				●
Scoping our work in relation to our regulation of barristers in their early years of practice to assure their competence and their continuing professional development	●		●	●	●	●		●
Continuing to challenge the Bar to promote anti-racism and to tackle discriminatory practices	●		●	●		●	●	●
Working alongside stakeholders to deliver robust improvements to our regulatory approach in tackling bullying, discrimination and harassment at the Bar	●		●	●		●		●
Analysing the responses we received from the 2020 Regulatory Return	●		●	●	●	●		●
Continuing our review of the Equality Rules within the BSB Handbook	●	●	●	●	●	●		●

Strategic Aim 3 – Advancing access to justice in a changing market

The core work that we will conduct through the year:

- providing information to the public about barristers and legal services;
- working with our stakeholders and other regulators and agencies to understand some of the barriers to accessing justice. This includes the reduced availability of Legal Aid, and the increased prevalence of remote hearings and other consequences of the health emergency;
- sharing information with the public to help them overcome these barriers;
- continuing to implement our public engagement strategy to increase public understanding about legal services, and in particular those offered by barristers, in partnership with consumer organisations; and
- providing ongoing assurance of professional competence.

The policy development or other activity that we will undertake this year:

- using our research with consumers to better understand what matters to them when using barristers' services;
- collaborating with other regulators to understand the possible benefits of quality indicators and pilot new approaches;
- developing a regulatory approach to how barristers might use consumers' feedback about their services to improve the quality indicators available to those seeking to engage the Bar; and
- ensuring compliance with the current rules on [price transparency](#), and undertaking an evaluation of the impact of those rules.

The table below shows which of our planned policy development activities under Strategic Aim 3 relate to which of our Regulatory Objectives. Our core day-to-day regulatory work spans all the Regulatory Objectives.

The Regulatory Objectives								
Our planned policy development work in 2021-22	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	Promoting and maintaining adherence to the professionals' principles
Using our research with consumers to better understand what matters to them when using barristers' services	●		●	●	●	●	●	
Collaborating with other regulators to understand the possible benefits of quality indicators and pilot new approaches	●		●	●	●		●	●
Developing a regulatory approach to how barristers might use consumers' feedback about their services to improve the quality indicators available to those seeking to engage the Bar	●		●	●	●		●	●
Ensuring compliance with the current rules on price transparency, and undertaking an evaluation of the impact of those rules	●		●	●	●		●	

The role and work of the BSB

The Bar Standards Board is made up of a combination of lay people and barristers. It has a lay majority and a lay chair, Baroness Tessa Blackstone.

Leadership

The Board is responsible for leading the organisation. It sets our direction and approves policy and strategy. The Board supports the Executive in representing the BSB with external stakeholders and accepts collective accountability for the organisation's work in regulating barristers in the public interest.

Accountability, assurance and oversight

The Board, and its standing committees, monitor the work and performance of the organisation. It holds the executive to account for:

- the commitments made in this Business Plan;
- the BSB's agreed service standards; and
- the delivery of key milestones to time and to budget.

Strategy

The Board sets and approves the strategy for the organisation, taking account of the wider regulatory and risk landscape. When approving its strategy, it takes account of short-term pressures but also maintains sight of broader long-term trends.

Our Board discharges some of its functions through the following standing committees:

- **The Governance, Risk and Audit Committee (GRA)** 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 risk management framework and our internal audit function.

- **The Strategic Planning and Resources Committee (SPR)** is responsible for work relating to development of our strategic direction and plans. It advises the Board on developments to the planning and resource setting processes. It also considers whether financial and operational resources are properly and effectively allocated and efficiently managed across our organisation.

The Board has also established the Independent Decision-making Body (IDB) which is made up of 31 decision makers, 13 of whom are barristers and 18 are members of the public who are not solicitors or barristers. It makes decisions by sitting in panels about cases passed to the Legal and Enforcement Department for investigation that may require disciplinary action. It also makes decisions about appeals that have been made against a decision not to license a body to provide legal services, or appeals against decisions about whether or not barristers or authorised bodies need to meet specific BSB Handbook requirements.

Our work is also overseen by the Legal Services Board, in accordance with the Legal Services Act 2007.

Our 2021-22 budget

Our budget year runs from 1 April 2021 to 31 March 2022.

How is the BSB funded?

Most of our funding comes from Practising Certificate Fees (PCF) and Bar Council reserves. These income streams are not within our direct control but are forecast using the latest available market data. Our income streams other than the PCF come from charges we make for specific services we provide to individuals and organisations, and we use historical and market data to forecast what we expect to receive. These income streams include, for example, the fees from Authorised Education and Training Organisations (AETOs), and the Bar Transfer Test (BTT). We independently set our own budget with regard to the forecasts for both PCF income and income streams other than the PCF.

The Practising Certificate Fee (PCF)

The PCF is collected by the General Council of the Bar (GCB). The GCB's income from the PCF is divided between:

- the BSB for regulation (58% £6,926k)
- the Bar Council for some of its functions (as permitted under s51 of the Legal Services Act) (24% £2,878k) and
- the remaining 18% (£2,144k) is paid to fund GCB pensions (£1,300k) and to the Legal Ombudsman and the Legal Services Board (£844k) to fund their services.

The 58% of PCF income which we receive for regulation accounts for 72% of our total funding. The BSB and the GCB have consulted on our budgets and PCF proposals with the profession and have received approval from the Legal Services Board. This year's budget was determined with reference to the fact that we know 2020 was a financially very challenging year for many parts of the Bar, and our financial

commitments in 2021-22 have been adjusted accordingly.

Income streams other than the PCF	£k
Entity Regulation and ABS	80
Authorisations – Waivers and Accreditation	108
Examinations	190
Bar Training	1,350
Training provider authorisations	9
Prosecution costs	40
Public access	1
Total non-PCF income	1,778
Total PCF income	7,836
Contribution from Resources Group income	106
Total BSB income	9,720

Regulation – the costs explained

The BSB has direct control of a budget of £6,948k for 2021-22. We formulate our own budget in accordance with our priorities and strategy. However, this budget 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 the shared Resources Group to carry out support work (IT, Finance, and certain Human Resource and Project Management functions).

The Resources Group budget, which includes our share of the costs of our shared premises, is managed separately and part of that budget (£3,871k) is apportioned to the BSB. We will as always look to ensure that our expenditure is allocated wisely and in a way that delivers maximum value-for-money for those who fund us. The organisation undertakes rigorous prioritisation exercises as part of business planning. Only activity deemed essential is agreed and included in the Business Plan.

How will we spend our budget?

Budgets controlled directly by the BSB	£k
Staff Costs¹	4,957
Non-Staff Costs	
Regulatory Operations	1,036
Legal and Enforcement	515
Strategy and Policy	207
Communications and Public Engagement	60
Corporate Services	147
Chair and Director General	6
Total non-staff costs	1,971
BSB contribution to shared services	3,871
Total operating expenditure	10,799
Total Non-Operating Expenditure	
Capital expenditure	20
Defined benefit pensions scheme	910
Total Expenditure	11,729

The deficit of £2.009 million we project for 2021-22 will be financed by the use of reserves, supplemented by a Coronavirus Business Interruption Loan Scheme (CBILS) loan.

1 As well as salary and associated on-costs, "Staff Costs" includes provision for temporary staff, recruitment, training, and the expenses incurred by staff in the course of performing their duties.

Further reading

To obtain a fuller picture of who we are, what we do, and the context in which this Business Plan was produced, please visit the following pages on our website:

- Risk-based regulation is an integral part of how we regulate the Bar and how we develop our strategy. You should read our [Risk Outlook](#), our [Risk Framework](#) and our [Risk Index](#) to understand more about this aspect of our work and to gain a better understanding of how we arrived at the strategic aims described in this Plan.
- This Business Plan is designed to be in read in conjunction with our [2019-22 Strategic Plan](#) which you can read on our website.
- More information about our work around [equality and diversity](#) can be found there.
- Our [organisational values](#) describe the way in which we conduct all our work including the activities described in this Plan.

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A decorative horizontal band at the bottom of the page featuring a complex geometric pattern of overlapping triangles and polygons in various shades of blue, green, and purple.