

BAR  
STANDARDS  
BOARD

REGULATING BARRISTERS

## **Regulatory Decision-making**

**Statistical Report 2021/22**

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Regulatory Operations Department  
Legal & Enforcement Department

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## Introduction

1. This Statistical Report accompanies the Regulatory Decision-Making Annual Report for 2021/22 and presents the statistical data collected between 1 April 2021 and 31 March 2022 concerning the new applications and reports that we received, the caseload that we worked on throughout the year, the outcomes of this work, and the quality assurance work carried out by the Independent Reviewer. This data was extracted from our Case Management System in June/July 2022. Where possible, figures for 2020/21 are also provided for comparison.
2. The Bar Standards Board's Authorisation Team is responsible for dealing with applications for waivers and exemptions from our practising requirements. The team also deals with the authorisation of Approved Education and Training Organisations, Alternative Business Structures and Entities.
3. The Bar Standards Board publishes a Handbook with which barristers comply. Where there is evidence that the Handbook has been breached, the BSB will consider what action may be necessary by way of enforcement or otherwise. The work of enforcing the Handbook is carried out by the Contact and Assessment Team, Investigation and Enforcement Team, and the Independent Decision-making Body of the BSB. We assess reports, investigate allegations and, where appropriate, take action against barristers who have breached their professional obligations as set out in the Handbook.
4. Where enforcement is not appropriate the matter may be passed to the Supervision Team to address any regulatory issues identified to prevent recurrence and ensure compliance with the Handbook.

# Authorisations Team

**Table 1** Annual KPIs

KPI	2020/21	2021/22
<b>Authorisation, exemptions and waivers</b>		
Applications determined within six weeks of receipt of the complete application <b>(Target 75%)</b>	26.3%	43.9%
Applications determined within eight weeks of receipt of the complete application <b>(Target 80%)</b>	38.2%	57.6%
Applications determined within twelve weeks of receipt of the complete application <b>(Target 98%)</b>	59.0%	82.1%
<b>Entity (including ABS) Authorisation</b>		
Authorisation decisions made within six months of receipt of the application and associated fee <b>(Target 90%)</b>	94.7%	92.3%
Authorisation decisions made within nine months of receipt of the application and associated fee <b>(Target 100%)</b>	100.0%	100.0%

**Table 2** Applications received

Application type	2020/21	2021/22
Transferring Qualified Lawyer	62	293
Certificate of Academic Standing (qualifying degree)	123	147
Litigation Authorisation	96	82
Pupillage Reduction	76	80
Pupillage Funding and/or Advertising Waiver	50	56
Reactivation of Stale Qualifications	44	54
Pupillage Dispensation	39	49
OISC Licensed Access (Renewal)	48	43
Waiver of the Qualified Person Requirement	31	36
Fee Waiver Request	24	28
Licensed Access Amendment/Renewal	29	28
OISC Licensed Access (Registration)	12	18
Non-QLD Provider Exemption	13	17
Under Review	28	16
Public Access Exemption	22	16
Pupillage Reduction (barristers also qualified as solicitors)	25	15
QLD Provider Exemption	6	13
Licensed Access Authorisation	21	12

<b>Application type</b>	<b>2020/21</b>	<b>2021/22</b>
CPD Waiver (NPP)	12	9
CPD Extension (NPP)	10	9
Admission to the Bar as a Qualified Foreign Lawyer	140	8
Exercise of Discretion	11	8
Retrospective Registration of Pupillage	3	8
General Exemption	8	8
Bar Exam Transcript/Letter	1	7
BTT Extension	88	5
Admission to the Bar as a Qualified European Lawyer	18	5
Admission to the Bar for Solicitors	92	4
Early Commencement of the Vocational Component of Bar Training (COVID-19)	28	4
Certificate of Academic Standing (without qualifying degree)	3	3
Review of a Decision of the Inns' Conduct Committee	4	3
Admission to the Bar for Registered European Lawyer	11	2
Professional Qualifications Exemption	0	1
Legal Advice Centre Application	2	1
Temporary Admission	1	1
Admission for Legal Academics	4	1
Registration as a European Lawyer	2	0
Exemption from the vocational stage of training for those who passed the bar examination for nonintending practitioners	1	0
<b>Total</b>	<b>1188</b>	<b>1090</b>

**Table 3 Applications determined**

<b>Application type</b>	<b>2020/21</b>	<b>2021/22</b>
Transferring Qualified Lawyer	1	282
Certificate of Academic Standing (qualifying degree)	122	164
Pupillage Reduction	71	100
Litigation Authorisation	92	96
Pupillage Funding and/or Advertising Waiver	46	59
Pupillage Dispensation	31	58
Reactivation of Stale Qualifications	51	57
OISC Licensed Access (Renewal)	38	51
Waiver of the Qualified Person Requirement	32	36
Fee Waiver Request	19	30
Licensed Access Amendment/Renewal	31	28
Pupillage Reduction (barristers also qualified as solicitors)	25	24
Admission to the Bar as a Qualified Foreign Lawyer	162	24

<b>Application type</b>	<b>2020/21</b>	<b>2021/22</b>
Public Access Exemption	16	20
OISC Licensed Access (Registration)	7	20
Licensed Access Authorisation	20	18
Non-QLD Provider Exemption	16	18
BTT Extension	83	17
Under Review	28	17
QLD Provider Exemption	6	12
CPD Extension (NPP)	23	11
Exercise of Discretion	9	9
General Exemption	10	8
Admission to the Bar as a Qualified European Lawyer	21	8
Retrospective Registration of Pupillage	2	7
CPD Waiver (NPP)	15	6
Admission to the Bar for Solicitors	105	6
Early Commencement of the Vocational Component of Bar Training (COVID-19)	24	5
Admission to the Bar for Registered European Lawyer	13	4
Certificate of Academic Standing (without qualifying degree)	5	4
Bar Exam Transcript/Letter	0	3
Review of a Decision of the Inns' Conduct Committee	3	3
Legal Advice Centre Application	2	2
Uncommon Waiver	0	1
Professional Qualifications Exemption	0	1
Temporary Admission	1	1
Admission for Legal Academics	4	1
Registration as a European Lawyer	3	0
Permission to undertake External Training	2	0
Exemption from the vocational stage of training for those who passed the bar examination for nonintending practitioners	1	0
<b>Total</b>	<b>1140</b>	<b>1211</b>

## Contact and Assessment Team

**Table 4** Annual KPIs

KPI	2020/21	2021/22
<b>General Enquiries</b>		
General enquiries addressed within 5 days <b>(Target 80%)</b>	80.5%	80.3%
General enquiries referred within 3 days <b>(Target 80%)</b>	63.6%	57.1%
<b>Initial Assessment</b>		
Concluded or referred within 8 weeks <b>(Target 80%)</b>	60.5%	49.1%
<b>Quality Indicators</b>		
Percentage of cases where the Independent Reviewer upheld the original decision following a request for review <b>(Target 95%)</b>	98.0%	98.4%

**Table 5** Reports opened

Year	No.
2017/18	1,242
2018/19	1,340
2019/20	1,459
2020/21	1,885
2021/22	2,196

**Table 6** All incoming information

Purpose	2020/21	2021/22
Ask a Question	1,419	1,192
Report Something	1,634	1,811
Report - Reporting Obligations	146	185
Other	105	200

**Table 7****Closures**

<b>Purpose</b>	<b>2020/21</b>	<b>2021/22</b>
Ask a Question	1,398	1,208
Report Something	1,408	2,084
Report - Reporting Obligations	133	223
Other	93	210

## Investigation and Enforcement Team

<b>Table 8</b>		<b>Annual KPIs</b>	
<b>KPI</b>	<b>2020/21</b>	<b>2021/22</b>	
<b>Referral of cases</b>			
Accepted or referred back within 2 weeks <b>(Target 80%)</b>	29.9%	53.8%	
<b>Investigation</b>			
Decision on disposal within 25 weeks <b>(Target 80%)</b>	44.3%	34.1%	
<b>Quality Indicators</b>			
Percentage of cases where the Independent Reviewer upheld the original decision following a request for review <b>(Target 95%)</b>	100.0%	83.3%	
Number successful appeals against the imposition of administrative sanctions <b>(Target 0%)</b>	100.0%	100.0%	
Number successful appeals of Disciplinary Tribunal decisions attributable to procedural or other error by the BSB or discrimination in the decision-making process <b>(Target 0%)</b>	25.0%	0.0%	

<b>Table 9</b>		<b>Cases referred to Investigation</b>	
<b>Year</b>		<b>No.</b>	
2017/18		240	
2018/19		163	
2019/20		175	
2020/21		129	
2021/22		238	

Table 10

## Aspects of new Investigation cases

Aspect	2020/21	2021/22
Failing to renew practising certificate	4	60
Other diminishing trust and confidence	39	57
Holding out as a barrister when not authorised to do so	10	25
Failing to report own serious misconduct	1	19
Dishonesty in professional or personal life	8	17
Providing an incompetent standard of work/service	3	13
Failure to obtain practising certificate	4	13
Other misleading the court*	6	11
Providing legal services when not authorised to do so	2	11
Other abuse of role as an advocate	2	9
Failing to provide information promptly to the BSB	1	9
Not acting in the client's best interests	6	9
Misleading a person or client*	3	8
Failing to comply with sentence of a tribunal	3	8
Criminal conviction other than drink driving	2	8
Inappropriate content on social media	11	8
Making misleading/false/unfounded submissions or statements*	6	7
Harassment	10	7
Failing to report criminal charges or convictions	8	6
Wasting the court's time	1	6
Failing to obtain appropriate insurance	0	6
Failing to report disciplinary action by another regulator	1	6
Rudeness/misbehaviour in court	2	6
Conducting litigation when not authorised to do so	5	6
Performing reserved legal activities when not authorised to do so	5	6
Handling client money	3	6
Breach of confidentiality	3	5
Conflict of interest	5	5
Inappropriate drafting of documents	0	5
Making serious allegations without proper foundation	0	5
Inappropriate use of position as a barrister	1	4
Failing to act independently	2	4
Other breach of Public Access Rules	1	4
Failing to preserve client confidentiality	0	4
Failing to comply with legal or other non-regulatory obligations	2	4
Misleading clients about the nature/scope/terms of work*	0	4
Making statements designed to insult/annoy/humiliate	3	4
Discrimination	3	4
Drafting statements/documents not supported by client or instructions	0	3
Practising without 'qualified person(s)'	0	3
Criminal conviction for drink driving	4	3
Failing to provide or disclose information	0	3

Aspect	2020/21	2021/22
Failing to take steps to ensure court has all relevant information	2	3
Inappropriate communications with clients or others	2	2
Failing to follow instructions	1	2
Failing to administer chambers/entity competently/efficiently	0	2
Making allegations not put in cross examination	0	2
Failing to properly advise client	1	2
Other failing to comply with authorisation to practise regulations	2	2
Failing to report a bankruptcy or other associated proceedings	5	2
Acting outside role as self-employed barrister	0	2
Failing to comply with the regulations on returning instructions	0	2
Inappropriately accepting instructions	0	2
Obtaining information unlawfully	0	2
Other	0	2
Making unsupported allegations of fraud/false assertions	0	2
Failing to comply with the regulations on Association with Others	0	1
Failing to acknowledge complaints promptly	1	1
Private dispute	0	1
Failure to comply with the complaints handling regulations	1	1
Making inappropriate media comments	2	1
Drafting statements/documents not properly arguable	0	1
Inappropriate contact with witnesses/making payments to witnesses	0	1
Failing to notify client of required information	0	1
Inappropriate handling of information or evidence	1	1
Administration/liquidation/winding up proceedings	0	1
Failing to notify a change of practising address	0	1
Encouraging witness to give misleading or untruthful evidence*	1	1
Failing to administer practice properly/efficiently	0	1
Rudeness/misbehaviour out of court	2	1
Inappropriate cross-examination	0	1
Undue delay in dealing with papers	1	1
Disciplinary finding by another body	2	1
Unregistered barrister failing to provide information to client	0	1
Failing to comply with undertaking when conducting litigation	0	1
Victimisation	0	1
Failing to register with BMIF	0	1
Paying or receiving referral fees	1	1
False declarations on call/in CVs and other official documents	1	1
Failing to co-operate with the Legal Ombudsman	5	0
Undue pressure to accept settlement/plead guilty	1	0
Other breach of regulations on instructions	1	0
Failing to consider need for a professional client	1	0

Aspect	2020/21	2021/22
Acting outside role as BSB authorised body	1	0
Failing to have risk management procedures in place	1	0
Failing to comply with FTP/Interim Suspension	1	0
Fee dispute	3	0
Illegal fee arrangements	1	0

## Notes

“Aspects” describe the allegations made in a report. A report may have multiple different aspects.

\*Misleading aspects grouped under the umbrella term “Some form of misleading” in the 2021/22 Regulatory Decision-Making report.

**Table 11** Sources of new Investigation cases

Role of Reporter	2020/21	2021/22
A barrister	45	78
A chambers	0	1
A member of another professional body/regulator	3	36
A member of public	37	38
A pupil	2	1
Another legal profession - other	1	1
BSB staff	2	10
Coroner	0	0
Judge	5	6
Legal Ombudsman	2	0
Other	7	16
Solicitor	3	20
Not specified/unknown	23	31

**Table 12****Final outcomes of reports**

Outcome	2020/21	2021/22
<b>Closed without Investigation</b>	<b>20</b>	<b>20</b>
<b>Closed after Investigation</b>	<b>91</b>	<b>106</b>
Administrative Warning/Fine	32	49
Dismissed	48	50
Closed/Withdrawn	11	7
<b>Determination by Consent</b>	<b>4</b>	<b>4</b>
Proved/Upheld	4	4
Dismissed	-	-
<b>Disciplinary Tribunal</b>	<b>29</b>	<b>29</b>
Proved/Upheld	20	24
Dismissed	8	4
Withdrawn/Struck Out/No Evidence Offered	1	1
<b>Total</b>	<b>144</b>	<b>159</b>

## Notes

The outcomes listed are the final outcomes of reports. Where reports were reopened, only the final outcome is listed, not any interim decisions.

**Table 13****Decision sources for closed reports**

Decision Source	2020/21	2021/22
LED staff	60	73
Independent Decision-making Panel	31	33
<b>Total</b>	<b>91</b>	<b>106</b>

Table 14

## Charges upheld at disciplinary action

Charge	2020/21	2021/22
Breach of duties	16	18
Undermining honesty, integrity or independence in public eyes	8	14
Misleading client as to nature/extent/terms of services that can be provided	0	3
Being dishonest or otherwise discreditable	2	2
Holding out	1	2
Misleading or attempting to mislead anyone	1	2
Failing to provide information to BSB promptly	2	2
Carrying out reserved legal activity without authorisation	2	2
Failing to report a criminal conviction/caution	2	2
Failing to report (general)	1	1
NULL	1	1
Acting in a manner prejudicial to admin of justice	1	1
Failing to report a criminal charge	1	1
Public Access Rules - non-compliance with requirements for under three years' standing	0	1
Wasting court time	0	1
Failing to promote best interests of client	0	1
Acting in a manner likely to bring prof into disrepute	2	1
Misleading or attempting to mislead the court	1	1
Failure to report regulatory or disciplinary action by another regulator	2	1
Practising without a practising certificate	2	1
Handling client money	1	1
Failing to provide reasonable assistance to LeO	0	1
Failing to comply with a decision or sentence of BSB/BTAS panel	3	1
Inappropriate supply of legal services	0	1
Failing to report serious misconduct	1	1
Failing to report criminal charges or convictions	1	0
Failure to comply with other provision of Code	1	0
Unlawful discrimination, victimisation or harassment	1	0

## Notes

The figures listed are numbers of charges for cases upheld following a Disciplinary Tribunal or the Determination by Consent procedure. A case may have multiple different charges, and within a case the barrister may have breached the same paragraph of the Code of Conduct multiple times.

**Table 15****Sentences imposed in reports upheld at disciplinary action**

Sentence	2020/21	2021/22
Advised as to Future Conduct	1	0
Attend on nominated person for advice	0	0
Attend on nominated person to be reprimanded	0	0
Disbarred	4	6
Fined	11	12
No separate penalty	2	3
Prohibited from Accepting Public Access Instructions	0	1
Reprimanded	10	14
Suspended	9	7

**Notes**

The figures listed are the numbers of barristers who were subject to these sanctions.

## Supervision Team

**Table 16** Annual KPIs

KPI	2021/22
<b>Allocations</b>	
Assigned within 3 working days ( <b>Target 80%</b> )	96.6%
<b>Regulatory Response</b>	
Agreeing a regulatory response within 20 working days of the case being assigned ( <b>Target 80%</b> )	89.9%
<b>Visits</b>	
Report letters issued within 5 working days of a visit to an organisation ( <b>Target 80%</b> )	100.0%

**Table 17** Cases opened

Purpose	2020/21	2021/22
Referred to Supervision by CAT	88	119
Received directly by Supervision	27	90

**Table 18** Stages completed

Stage	2020/21	2021/22
<b>Allocations</b>		
Cases assigned to members of the Supervision team	96	118
<b>Regulatory Response</b>		
Agreement of the regulatory response	97	199
<b>Visits</b>		
Report letters issued	5	6
<b>Closures</b>		
Cases closed	77	156

**Table 19****Regulatory Risks for Supervision Actions on Regulatory Returns**

Stage	2021/22
1 Failure to provide a proper standard of service	178
2 Unethical conduct	4
3 Lack of professional competence	25
4 Failure in the management of an individual practice or chambers	567
5 Failure in training provision	1
6 Profession fails to reflect the diversity of society	104
7 Access to justice failures	150
8 Commercial and other external pressure are detrimental to the consumer and / or the public interest	2

**Table 20****Priority of Supervision Actions on Regulatory Returns**

Priority	2021/22
1	81
2	83
3	407
4	460

**Table 21****Risk assessments for Regulatory Returns**

Priority	2021/22
<b>Chambers</b>	
High	11
Medium	47
Low	196
<b>BSB entities</b>	
High	1
Medium	2
Low	14
<b>Sole Practitioners</b>	
High	4
Medium	10
Low	33

## Independent Reviewer

**Table 22**      **Requests for Reviews**

<b>Outcome</b>	<b>2020/21</b>	<b>2021/22</b>
<b>CAT</b>	<b>100</b>	<b>125</b>
Decision Upheld	96	121
Decision Partially Upheld	2	2
Decision Not Upheld	2	2
<b>I&amp;E</b>	<b>13</b>	<b>6</b>
Decision Upheld	10	4
Decision Partially Upheld	3	1
Decision Not Upheld	0	1

Table 23

## Quality Assurance Audits

Outcome	2020/21	2021/22
<b>Authorisations - Waiver Applications</b>	<b>18</b>	<b>47</b>
Decision Appropriately Made	18	47
Decision Not Appropriately Made	0	0
<b>Authorisations - Entity/ABS applications</b>	<b>6</b>	<b>8</b>
Decision Appropriately Made	6	8
Decision Not Appropriately Made	0	0
<b>CAT - Closures</b>	<b>28</b>	<b>69</b>
Decision Appropriately Made	28	69
Decision Not Appropriately Made	0	0
<b>CAT - Referrals to Supervision or Enforcement</b>	<b>0</b>	<b>24</b>
Decision Appropriately Made	-	24
Decision Not Appropriately Made	-	0
<b>I&amp;E - Dismissals</b>	<b>8</b>	<b>17</b>
Decision Appropriately Made	8	17
Decision Not Appropriately Made	0	0
<b>I&amp;E - Administrative Sanctions</b>	<b>2</b>	<b>12</b>
Decision Appropriately Made	2	12
Decision Not Appropriately Made	0	0
<b>I&amp;E - Disciplinary Action referrals</b>	<b>7</b>	<b>3</b>
Decision Appropriately Made	7	3
Decision Not Appropriately Made	0	0
<b>Supervision - Regulatory Response</b>	<b>0</b>	<b>9</b>
Decision Appropriately Made	-	9
Decision Not Appropriately Made	-	0