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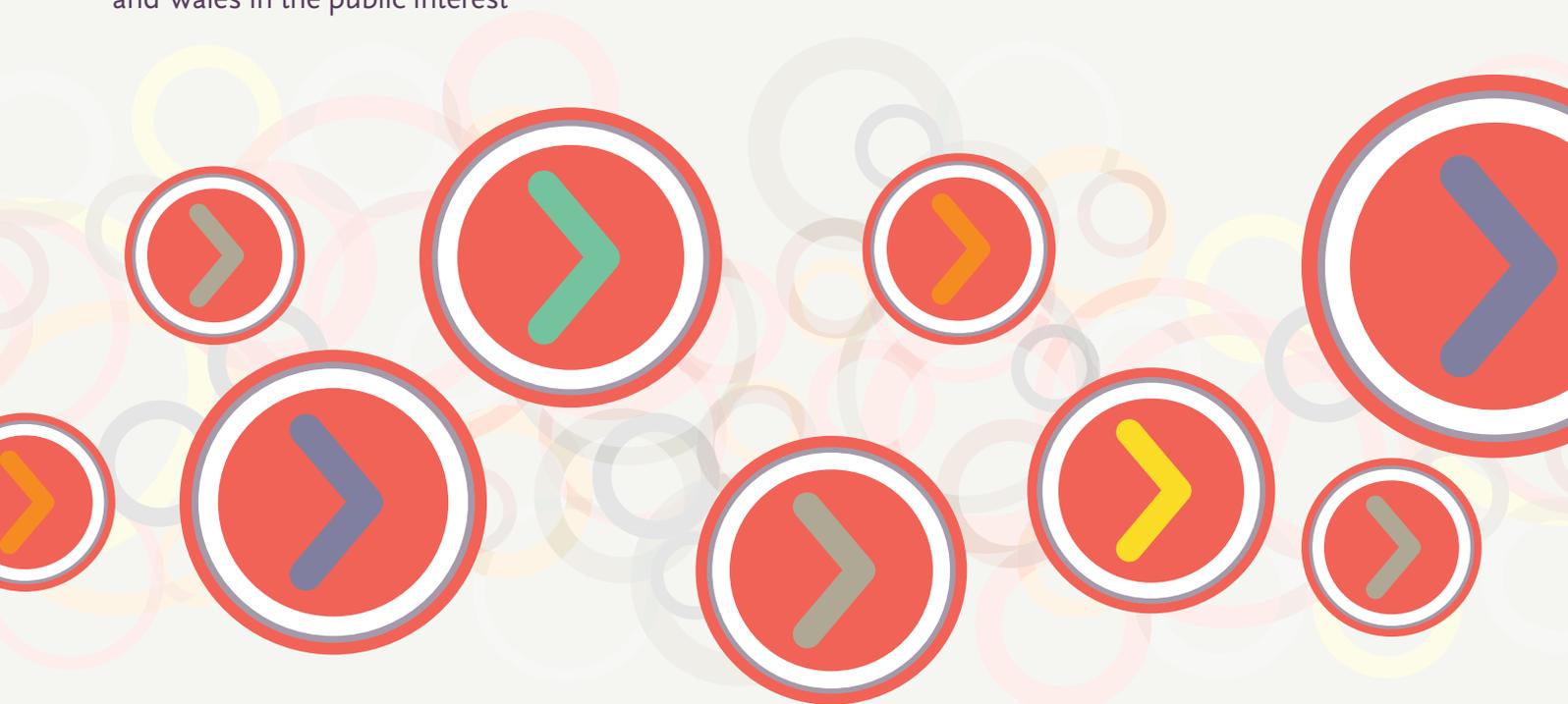
**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

Annual Report

2018-19

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



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' services. We identify all the potential risks that could prevent the Regulatory Objectives from being met. When we have done this, we focus our attention on the risks that we think pose the biggest threats to the public interest.

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

Please visit our website at www.barstandardsboard.org.uk to find out more about what we do.

Welcome to our Annual Report for 2018-19

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Our year in numbers: 2018-19

 **16,618**
registered barristers regulated

(and a further 52,156 barristers without practising certificates who are also subject to our regulation) as at 31 March 2019

108




We authorised 108 specialised legal services businesses in 2018/19.

Our Board

 Chair  Up to 8 Lay members (including the Chair)  Up to 7 Barrister members


We launched four consultations in 2018-19.



We introduced **new Bar training rules**

(which went live on 1 April 2019) designed to ensure that training to become a barrister is more accessible, affordable and flexible and that it maintains the high standards of entry expected at the Bar.



We seek to promote **diversity at the Bar and beyond.**

 We agreed new rules to improve **transparency standards** for barristers' clients. 



We received **313 applications**

from solicitors, EU lawyers, overseas lawyers and legal academics wanting to transfer to the Bar.

 **479**
complaints were opened against barristers



27
barristers had a disciplinary finding against them.

4
barristers were suspended.

4
barristers were disbarred.

Centralised examination papers sat by students as part of their BPTC.


March 2019 **5,491**
August 2018 **1,354**

Approximately 475 people

attended one of our 12 stakeholder engagement events.



A personal word of introduction from BSB Chair, Baroness Blackstone



I hope that this Report will be a useful document, highlighting both the policy developments we made during 2018-19 and our day-to-day work regulating barristers and specialised legal services businesses in England and Wales in the public interest. It covers the final year of the Strategic Plan for 2016-19.

Day-to-day regulatory work accounts for most of our time and resources. It includes overseeing the education and training requirements for becoming a barrister; monitoring the standards of conduct of barristers; and assuring the public that everyone we authorise to practise is competent to do so.

We made a number of policy changes in 2018-19.

They included finalising the new Bar Qualification Rules which were approved by the Legal Services Board in February and went live on 1 April 2019. The new rules enable the programme of reform known as “Future Bar Training” to be implemented and are designed to ensure that training to become a barrister becomes more accessible, affordable and flexible whilst maintaining the high standards of entry expected at the Bar. We will be implementing various aspects of the new rules between now and September 2021 whilst ensuring that prospective barristers already part way through their training are not disadvantaged.

We also concluded most of the policy work relating to new transparency rules for the Bar in response to the Competition and Markets Authority’s (CMA’s) recommendations in this area. The new transparency standards are designed to improve the information available to the public before they engage the services of a barrister. Following a series of public consultations, we agreed the new rules in January 2019 and then submitted them to the Legal Services Board for approval.

We prepared to adopt the civil standard of proof for professional misconduct proceedings for alleged breaches of the Code by barristers occurring after 31 March 2019. We also continued to prepare for the introduction of our new Independent Decision-Making Body (IDB) in October 2019 along with our new Contact and Assessment Team. These developments are the final part of our governance reform programme and aim to deliver more consistent and efficient handling of incoming information, and more timely and efficient regulatory decision making.

You can read about our other policy development work later in this report.

Our year-end financial position was positive when assessed against the original budget. Whilst we had a small overspend of less than 1% (primarily related to unforeseen and unavoidable expenditure), we received an additional 34% (£398,000) of non-Practising Certificate Fee (PCF) income.

An important aspect of our regulatory approach is how we engage with the profession and our other key stakeholders. I was pleased with the level of collaboration we achieved during 2018-19 as approximately 475 people attended our 12 stakeholder engagement events. I would like to thank all those who have worked with the BSB in the past year to help us achieve our objectives.

We have developed three key aims for our next Strategic Plan which covers 2019-22:

- to deliver risk-based, targeted and effective regulation;
- to encourage an independent, strong, diverse and effective legal profession; and
- to advance access to justice in a changing market.

Our key priority for the forthcoming period must be to ensure that our policy reforms are successfully implemented and evaluated, so the next three years will involve fewer new policy initiatives, fewer consultations and fewer rule changes.

I would like to thank my colleagues on the Board, our committee members, and our executive team for their hard work during 2018-19.



Tessa Blackstone
Chair, Bar Standards Board

2016-19 Strategic Plan

The 2016-2019 Strategic Plan organised our work into three Programmes:

- regulating in the public interest;
- supporting those we regulate to face the future; and
- ensuring that there is a strong and sustainable regulator for the Bar.

Embedded into these programmes was our approach to how we addressed the main risks we perceived to our Regulatory Objectives. The key risk themes during this period were:

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

1

Strategic Programme 1: Regulating in the public interest

This Programme was about ensuring that our regulatory approach promoted and protected the interests of consumers of legal services and the wider public.

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

We developed our engagement with the profession and consumers, so that what we proposed and what we did could be demonstrably evidence-based and risk-focused, and understood by users and providers.

We continued to strengthen and demonstrate our independence from the profession by ensuring that 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 was about supporting the profession, so that it could continue to provide essential legal services at a high standard to the public in the years to come.

The legal services market has been changing rapidly and is continuing to do so. We tried to help the public to understand the distinct role 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.

We implemented our plans to provide barristers with further opportunities to innovate in the ways in which they supplied legal services and began authorising Alternative Business Structures.

We ensured our regulatory frameworks did not pose unnecessary barriers to entering the market and we reformed legal education and training to sustain high standards while seeking to make training for the Bar more accessible, affordable and flexible. We completed our comprehensive “Future Bar Training” review and new Bar Qualification Rules came into force on 1 April 2019.

Strategic Programme 3: Ensuring a strong and sustainable regulator

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

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

We actively promoted regulatory governance arrangements which were constitutionally and financially independent of government and of the profession we regulate, whilst at the same time ensuring that we maintained our credibility with the public.

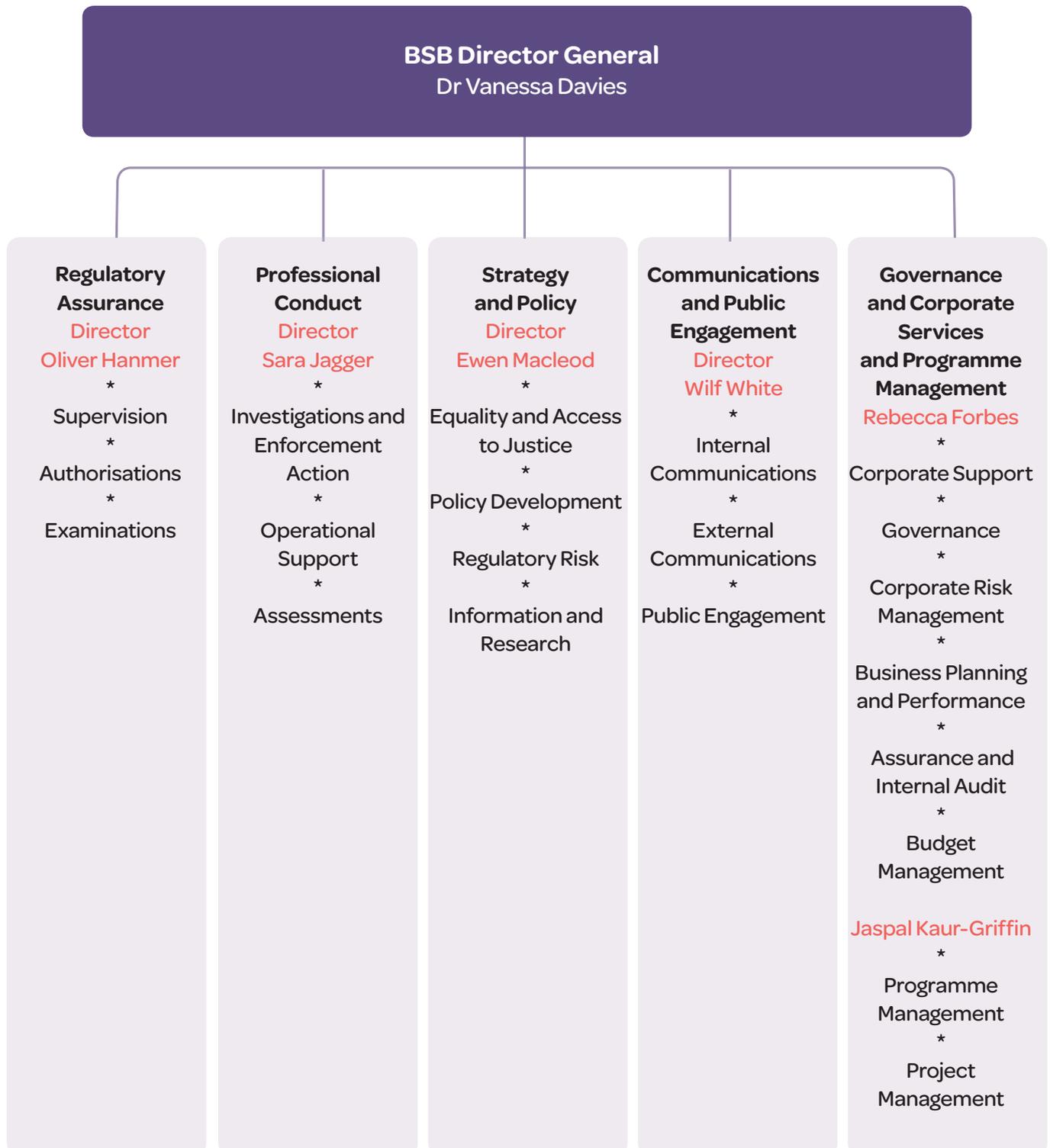
We continued to promote our core values of fairness, integrity, respect, excellence and value for money. We maintained our strong track record of transparency, accountability and good stewardship of resources by setting out clear and meaningful measures of success.

Along with the other legal regulators, we are subject to assessment by the Legal Services Board (LSB) on our performance against principles of good regulatory practice. The last assessment was in January 2019. The LSB found that our regulatory approach complied with good practice and identified only two areas for further improvement (the refinement of our approach to assuring standards of practice and assuming oversight of the authorisation to practise process). Both of these are features of our 2019-20 Business Plan.

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/

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 31 March 2019, we had 77 people employed at the BSB.



Strategy and Policy

We are a risk- and evidence-based regulator. Risk-based regulation means that we are constantly monitoring the market for barristers' services. We identify the potential risks and opportunities that could either hinder our work or enable our Regulatory Objectives to be met. When we have done this, we focus our attention on the biggest risks and then take action to try to prevent them from occurring, or to reduce their impact. You can read more about our risk-based approach to regulation and find out about the risk areas upon which we are focusing most of our attention during our 2019-22 strategy on [our website](#).

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 by collaborating with stakeholders who have an interest in our work. This can involve inviting external people or organisations to participate in workshops or project groups in addition to inviting comments, via consultations, on all our proposals. Where necessary, we use this knowledge to set or revise standards and introduce rules and guidance for barristers and entities. These rules are contained 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 important area is equality and diversity, where we set a number of objectives in our Equality Strategy. This is available on [our website](#).

Regulatory Assurance

The Regulatory Assurance Department brings together all 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 the individuals we regulate and the chambers and entities in which they practise. This includes a risk-based approach to supervision, the authorisation of new entities and the regulation of Continuing Professional Development (CPD).

We oversee the academic, vocational, and pupillage / work-based learning components of training that must be completed in order to qualify as a barrister. We set and mark examinations for prospective barristers. 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 (Enforcement)

The Professional Conduct Department assesses and, where appropriate, investigates concerns about the professional conduct of barristers and others whom we regulate. Where there is sufficient evidence, and the regulated person's conduct poses a risk to the Regulatory Objectives, we are also responsible for taking relevant enforcement action. We apply a four-stage process when considering reports or complaints about potential breaches of the ethical rules by those we regulate to ensure that we deal with all issues fairly and efficiently. This process is described in detail on [our website](#).

When an investigation leads to disciplinary action in front of a tribunal, the tribunals are arranged by an independent organisation called the [Bar Tribunals and Adjudication Service \(BTAS\)](#). We are responsible for presenting the disciplinary allegations to the Tribunal but it is for the independent tribunal to decide whether the allegations are proved.

We also provide information on request about the disciplinary history of any person or entity we regulate and maintain the disciplinary records posted on the BSB's website.

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 with 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/>

Communications and Public Engagement

The Communications and Public Engagement Department is responsible for all 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. The team helps make sure we fulfil our transparency and accountability functions.

Governance and Corporate Services

The Governance and Corporate Services team supports strategic and business planning and budgeting. It coordinates performance reporting and monitoring of our corporate risks. The team ensures that we act in accordance with good governance practice, and also provides administrative support for the Chair, Vice Chair and Director General.

Programme Management

The Programme Management team provides guidance in the best practice associated with the setup, running and closing down of major programmes and projects in support of regulatory change. The team aims to provide assurance on programme and project progress and delivery.

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 2018-19. If you want to see this reported against the list of activities that we set out in our 2018-19 Business Plan, please refer to [Annex 1](#).

As well as our consultations in 2018-19 on the future of Bar training, new transparency standards for the Bar and our new 2019-22 strategy, key highlights from the year included:

- agreeing a set of actions to tackle the unfair treatment of women at the Bar;
- recording high levels of compliance with the new Continuing Professional Development (CPD) scheme (just under 90% of barristers compliant in the first year of operation);
- considering the responses we received to our 2018 consultation on Modernising Regulatory Decision Making and deciding to move ahead with changes to our regulatory decision making (with key changes due to be implemented in October 2019);
- issuing new guidance for professional clients when instructing immigration barristers;
- adopting new statutory powers to intervene into barristers' practices in the very unlikely event that something has gone so seriously wrong that intervention is necessary to protect clients;
- raising the profile of the anti-money laundering requirements with which barristers must comply and engaging with the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) who broadly endorsed our supervision work in this area;
- consulting on new rules to promote reporting by the profession of sexual orientation and religion and belief data;
- publishing a new guide for barristers working with vulnerable immigration clients;
- reviewing pupillage recruitment practice at the Bar; and
- preparing for the civil standard of proof to be adopted in professional misconduct proceedings for alleged breaches of the Code by barristers occurring after 31 March 2019.

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 Bar. With 16,618 registered barristers in England and Wales on 31 March 2019 and a further 52,156 unregistered barristers who do not practise but who are nonetheless subject to our regulation, these everyday business-as-usual, regulatory tasks account for around 85% of our costs. These tasks include:

- supervising barristers, chambers and entities;
- assessing and investigating reports and complaints about barristers' professional conduct;
- when necessary, taking appropriate disciplinary action against barristers who have broken the rules;
- issuing practising certificates to individual barristers annually, and thereby authorising them to practise;
- authorising some barristers to conduct litigation and registering public access practitioners;
- managing the centralised examinations for the Bar Professional Training Course (BPTC);
- supervising BPTC providers and organisations that train pupils;

- 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 (legal services businesses).

In order to ensure value for money when conducting these “business-as-usual” activities, we have robust governance arrangements in place to make sure that we do all our work as efficiently as possible.

Assuring standards of entry to the profession

We have a duty to make sure that everyone who is authorised as a barrister in England and Wales 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 barristers are competent.

The following list illustrates the scope and extent of the work that we undertook in 2018-19 related to the qualification of barristers:

- 1,859 students passed a Bar Course Aptitude Test – one of our regulatory requirements – in order to demonstrate their aptitude to complete the BPTC successfully;
- 1,758 students enrolled with a BPTC provider;
- 1,354 centralised assessment papers were sat by students in August 2018 as part of their BPTC and a further 5,941 papers were sat in March 2019;
- we received 541 applications from students wishing to be exempted from various aspects of the academic or vocational components of learning;
- we received 186 applications from prospective barristers for exemptions and waivers in relation to pupillage;
- 157 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
- we received 313 applications from solicitors, EU lawyers, overseas lawyers and legal academics wanting to transfer to the Bar.

Reforming the system for qualifying as a barrister

The extensive review of education and training for barristers, known as “Future Bar Training” was completed during 2018-19 with a new set of **Bar Qualification Rules** coming into force on 1 April 2019.

The new Bar Qualification Rules are designed to ensure that training to become a barrister will be more accessible, affordable and flexible whilst maintaining the high standards of entry expected at the Bar.

Over the course of 2018-19, we took a number of important steps that ultimately led to the new Bar Qualification Rules going live on 1 April 2019.

In May 2018, we agreed in principle how we should move forward with several aspects of our review into the training and qualification of barristers, following an earlier consultation with the profession. We published a series of policy statements confirming that we believed pupillage and other forms of work-based learning to be essential elements of training for the Bar. These policy statements also announced, for the first time, our decision that the minimum award paid to those undertaking pupillage or any other form of work-based learning will be set having regard to the hourly rates recommended by the Living Wage Foundation and that the award will increase annually.

Between July and September 2018, we consulted on the draft new rules, asking if they adequately gave effect to the policy positions we set out during the Spring. The rules themselves set a high-level framework. Much of the policy implementation is achieved by additional supporting documents. The overall effect of both is that the final Bar Qualification Rules allow:

- the authorisation of more than one future training route for students to qualify as barristers in England and Wales. This policy was first announced in the BSB's Statement in March 2017. A separate [Authorisation Framework](#) outlines in more detail how the BSB will permit Authorised Education and Training Organisations (AETOs) to provide training courses within any of the four permissible new training routes;
- the Inns of Court to continue to have a vital role in the education, training and qualification of barristers. We signed a [Memorandum of Understanding](#) with the Inns in March 2019. This outlines our respective roles under the framework of the new rules; and
- provision for the future of pupillage and other forms of work-based learning as described on [our website](#).

You can find further information about the changes we have made in the Future Bar Training section of [our website](#).

In December, we consulted the profession on how we should **recover our costs** in authorising and supervising AETOs under the new rules and in managing the centralised examinations that form part of the qualification process for new barristers. We sought views on the extent to which the costs should be met by students, AETOs or the profession in the form of contributions from barristers' Practising Certificate Fees (PCF). We confirmed our final fees when we published a new [Bar Qualification Manual](#) in support of the new rules in April 2019.

We have been accepting applications from prospective AETOs since April 2019. Precisely what training becomes available to prospective barristers, and when, will depend on those applying to become AETOs.

Assuring standards of practice by barristers

High standards of advocacy are the foundation of the justice system and of the rule of law. 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 assure the standards of barristers' work.

We **monitor and supervise barristers' practices**. In this way, we hope to identify whether something needs to change. 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.

Following our decision in 2017-18 not to implement the Quality Assurance Scheme for Advocates (QASA) during 2018-19, we published more detail about how we intend to **assure the competence of barristers**, including a range of additional measures that have already been implemented. These include:

- our Future Bar Training reforms that include a clearly defined statement of knowledge, skills and attributes expected of all newly qualified barristers on their first day of practice;
- introducing the new CPD scheme for experienced barristers in 2017;
- a requirement in the BSB Handbook that barristers should not undertake work unless competent to do so; and
- targeted regulation in areas such as Youth Court work and immigration practice.

Our revised CPD scheme for established practitioners was introduced in 2017. In 2018, our spot checking showed that just under 90% of barristers on the scheme were compliant, or compliant with some feedback from the BSB, after they were asked to submit their CPD records for 2017. This was a very promising start given that it was the first year of the scheme's operation. We will continue to raise awareness of the new scheme amongst the profession and to monitor and evaluate the impact of the introduction of the new scheme.

Another way that we assure standards of practice is by taking **enforcement action** against those few barristers who are found to have broken the rules of professional conduct.

During 2018-19, we opened 479 complaints about the conduct of barristers. Over 81% of cases were completed within the BSB's service standards. These service standards require that:

- our 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 investigated and either closed or referred to enforcement action within eight months; and
- complaints raised by us be investigated and either closed or referred to enforcement action within five months.

Of the 27 barristers who had disciplinary findings made against them during 2018/19, four were disbarred and a further four were suspended. The remaining 19 barristers received a range of other disciplinary sanctions such as fines and reprimands.

You can read more about the work of our Professional Conduct Department and our enforcement activities during 2018-19 in more detail in our separate annual Enforcement report. This report is usually published after this main Annual Report and will be available on our website.

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

Introducing more transparency for consumers about barristers' services.

In September 2018, we issued a consultation to seek views about our proposed new rules to improve **transparency standards** for clients of the Bar. This followed the work we had done in 2017-18 in response to the Competition and Markets Authority's (CMA's) market study of legal services and the publication of our agreed approach in February 2018. The full CMA report can be found on [their website](#).

The new transparency standards are designed to improve the information available to the public before they engage the services of a barrister. They relate to information about the areas of law in which barristers practise, the legal services provided by barristers, what those services cost, and a client's right to redress.

When the new rules come into force following approval from the LSB, all barristers will be required to make sure that their practice complies with the new rules, but there will be an implementation period until January 2020 with compliance spot checking by us not starting until then. The introduction of these new rules will enable the public to make more informed decisions before engaging a barrister. We intend to support the profession to comply with them.

Promoting equality and diversity

Equality and diversity forms an important and integral part of the work undertaken by the BSB and progress was made on several important fronts during 2018-19.

In February 2019, we published our annual report on **diversity at the Bar**. This showed that diversity improved steadily during 2018 but that further progress is needed.

Some of the key findings from the report include:

- at 62.0 per cent, men still outnumber women at 37.4 per cent at the practising Bar. The percentage of women at the Bar overall increased by 0.4 per cent during 2018;
- the percentage of Black and Minority Ethnic (BAME) practising barristers increased by 0.3 per cent compared to December 2017. 13 per cent of the practising Bar is now BAME;
- male QCs still outnumber female QCs, but the percentage of female QCs increased from 14.8 per cent in December 2017 to 15.8 per cent in December 2018;
- the percentage of BAME QCs has increased by 0.6 per cent year on year with 7.8% being BAME and 87.9% being white; and
- the gender and ethnic diversity of pupil barristers is roughly in line with the population of England and Wales, with 50.4 per cent of pupils being female and 16.3 per cent being BAME.

We **updated our guidance regarding reporting serious misconduct of others** to make it clear that our policy is not to take enforcement action against barristers who fail to comply with their duty to report discrimination, harassment (whether of a sexual nature or otherwise) or victimisation where they themselves have been the subject of these types of misconduct.

We listened to concerns that the requirement to report serious misconduct to the BSB may be hindering members of the profession from seeking help if they experience harassment. We therefore published **new guidance to allow pilot schemes** that would permit properly trained barristers to provide confidential support and guidance to colleagues who have experienced harassment. Such schemes are subject to a waiver from the requirement to report serious misconduct to the BSB.

In April 2018, we sought views on whether to remove certain restrictions on the reporting by the profession of **sexual orientation and religion and belief data**. The current rule in the BSB Handbook states that every member of a chambers' or a BSB regulated entity's workforce must give their consent before aggregated and anonymised data on sexual orientation and religion and belief can be published. The consultation proposed treating these in the same way as other diversity characteristics, where the only requirement is not to publish where there is a risk of any individuals affected being identified from the data. We suggested the change because we were keen to make sure that our rules on disclosure and transparency are both fit for purpose and encourage diversity at the Bar. Stakeholders mostly supported our proposals and after the end of 2018-19, we proceeded with a rule change application to the LSB.

We continued our work to tackle the **unfair treatment of women at the Bar**. In May 2018, we announced a set of actions including:

- working with others, including the Bar Council, the Institute of Barristers' Clerks and the Legal Practice Management Association, to address cultural issues at the Bar which may be contributing to various types of unfair treatment for women, and to consider future training needs;
- reviewing how our approach to supervision and enforcement can take account of equality and diversity best practice;
- measuring the overall effectiveness of the Equality Rules in the BSB Handbook and considering whether these need to be improved or updated; and
- reviewing the role of Equality and Diversity Officers within chambers.

Other work during 2018-19

In April 2018, having consulted with immigration barristers and others, we published an **online guide** to assist them when they work with vulnerable clients. The new resource helps immigration barristers to identify, assess and manage vulnerability, and helps them to meet their regulatory and other legal duties. The guide was developed in response to our 2016 Immigration Thematic Review, which showed that consumers of immigration advice are a particularly vulnerable group and that barristers and other legal professionals working with them would benefit from this type of non-mandatory guidance. A barrister's ability to identify vulnerability is highly likely to be relevant to their client's legal case. The guide was developed so it can be used by both the referral Bar and Public Access practitioners. There is also useful information for clerks and practice managers.

Our joint report with the Solicitors Regulation Authority (SRA) into **criminal advocacy standards** in June 2018 found that advocates representing clients in criminal courts are generally delivering a competent service to the public. It has helped inform how we assure standards of criminal practice. [The report](#) explored the views of the judiciary on the quality, provision and regulation of advocacy within the criminal courts.

The key findings of the judicial research include:

- while judges viewed the quality of advocacy as competent, some felt that standards were declining in some areas, especially in relation to core courtroom skills such as case preparation and dealing with some witnesses;
- advocates' skills in dealing with young and vulnerable witnesses are largely improving;
- the most commonly cited barrier to high quality advocacy was advocates taking on cases beyond their level of experience; and
- judges were uncertain over when, and how, they should report poor advocacy to regulators.

We shared some **good practice for barristers and advice for clients on consumer feedback** to encourage barristers to follow good practice when they receive feedback from their clients. We also published a [guide for the public](#) about using and leaving feedback about barristers' services. It was developed with input from barristers, practice managers and clerks.

Later in the year, we [published research](#) about the effectiveness of our rules that require inexperienced barristers to have **readily available access to an experienced practitioner** – a Qualified Person (QP) – for support and guidance. The research found that the levels of contact, support and advice available to newly qualified barristers vary considerably and that those who had received more guidance from a QP were more likely to find the arrangement to be helpful. The findings also suggested that should a more prescribed approach be introduced by the regulator, it could well deter current QPs from taking up an equivalent role in the future.

We established high level **strategic priorities for 2019-2022** in September 2018 and issued a consultation to seek views before unveiling our final strategy in March 2019. At the same time, we also published our 2019- 20 Business Plan and our 2019 Risk Outlook on the market for barristers' services.

Our strategic aims for 2019-22 will inform the work that we do over the next three years. 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 our planned work during 2019-22 in our latest [Strategic Plan](#).

These strategic aims derive from our priority risk themes which we have identified within the market for barristers' services. These 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
- affordability and lack of legal knowledge threaten access to justice.

You can read more about our latest risk themes in our [2019 Risk Outlook](#).

In 2018-19 we also sought to recruit the members of **our Independent Decision-Making Body (IDB)** which will start operating in October 2019. The changes are the final part of our governance reform programme and aim to deliver more consistent and efficient handling of incoming information, and more timely and efficient regulatory decision making.

The IDB will consist of a pool of 30 suitably qualified decision makers from which small panels of three or five persons made up of lay and barrister members will be formed to take decisions on individual cases. It replaces our 32-member Professional Conduct Committee. Most of the decisions for which the IDB will be responsible will be in relation to whether disciplinary action should be taken where breaches of the professional obligations set out in the BSB Handbook may have occurred.

Our **new Contact and Assessment Team (CAT)** will also start operating in October 2019. It will ensure greater consistency in the way in which we deal with and assess incoming regulatory information and represents a significant step in our ongoing evolution to become a truly risk-based regulator.

To support the introduction of CAT and other BSB developments, **our Information Management programme** is overseeing the introduction of more joined-up IT systems to support our work and to create further efficiencies in how we undertake it. This will benefit both the public and the profession.

In November 2018, we introduced **new intervention rules** on being given the statutory power to intervene into barristers' practices in the very unlikely event that something has gone so seriously wrong that intervention is necessary to protect clients.

The powers are similar to those already held by the SRA in relation to solicitors' firms, and came into force following a period of public consultation in 2015, a recommendation from the LSB to the Lord Chancellor and Parliament's approval of the necessary Order under the Legal Services Act.

Importantly, on 1 April 2019, the BSB began adopting the **civil standard of proof for professional misconduct proceedings** for alleged breaches of the Code by barristers occurring after 31 March. The standard has changed from the criminal standard ("beyond reasonable doubt" or "satisfied so as to be sure") to the civil standard ("on the balance of probabilities" or "more likely than not"). The criminal standard will continue to be applied for alleged professional misconduct that occurred before that date. This change came after a public consultation in 2017-18 and will bring the Bar's disciplinary arrangements in line with those of other professional regulators. It is an important development to ensure public protection.

Our governance

We are governed by a Board made up of up to 15 people. The Board has a non-barrister majority and a non-barrister Chair. The Board met 10 times during the year: there were seven ordinary meetings, one special meeting and two Away Days.

During 2018-19, the following people sat on our Board:

Chair:

Baroness Tessa Blackstone

Vice-Chair:

Ms Naomi Ellenbogen QC

Barrister members:

Mr Aidan Christie QC

Ms Justine Davidge (until 31 December 2018)

Ms Judith Farbey QC (until July 2018)

Ms Anupama Thompson (until February 2019)

Mr Andrew Mitchell QC

Ms Irena Sabic (from 1 January 2019)

Mr Adam Solomon QC

Lay members:

Ms Alison Allden OBE

Ms Lara Fielden

Mr Steven Haines

Ms Zoe McLeod

Ms Nicola Sawford

Ms Kathryn Stone OBE

Mr Stephen Thornton CBE

Accountability

Under the Legal Services Act 2007, 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 Act 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 and regulatory 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 and the GRA Committee. In addition, the GRA Committee conducts regular in-depth risk reviews throughout the year, including on the basis of Internal Audit reports.

Our income and expenditure

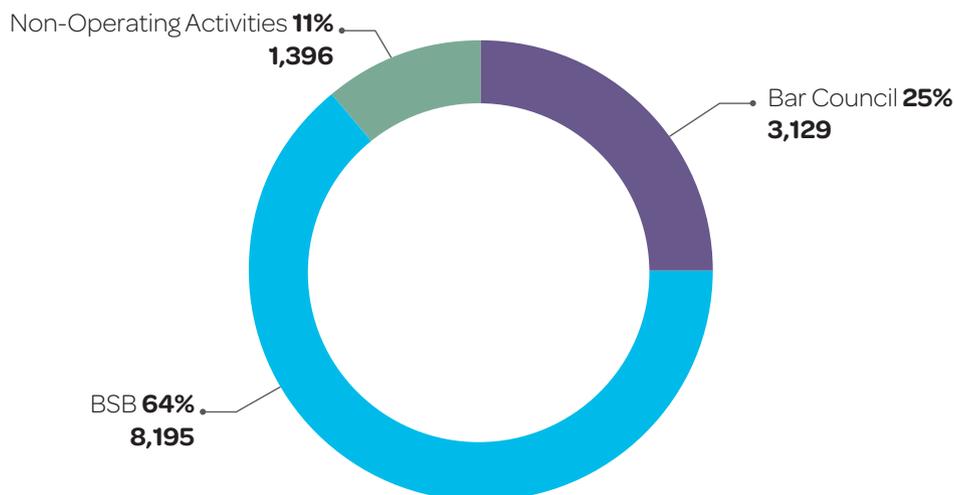
Income

Every practising barrister has to renew their practising certificate annually and is required to pay a Practising Certificate Fee (PCF). In 2018-19, the fees set were based on a barrister's income and were as follows:

Band	Income Band	2018 Fees
1	£0 - £30,000	£123
2	£30,001 - £60,000	£246
3	£60,001 - £90,000	£494
4	£90,001 - £150,000	£899
5	£150,001 - £240,000	£1,365
6	£240,001 and above	£1,850

A proportion of the PCF is spent by the BSB on regulation and a proportion is spent by the Bar Council on some of its functions (as permitted under s51 of The Legal Services Act). The PCF also pays for the Bar's share of the costs to run the Legal Services Board and The Legal Ombudsman.

Allocation of PCF between Bar Council and BSB (£ thousands)



Non-operating activities include the PCF allocation towards the costs of the Legal Services Board (£158k) and the Legal Ombudsman (£238k) as well as the contribution towards the defined benefit pension scheme (£1,000k).

Apart from the PCF, some of our income comes from charges we make for specific services we provide to individuals and organisations. We describe that kind of income as "income streams directly controlled by the BSB". Directly controlled income streams include the fees

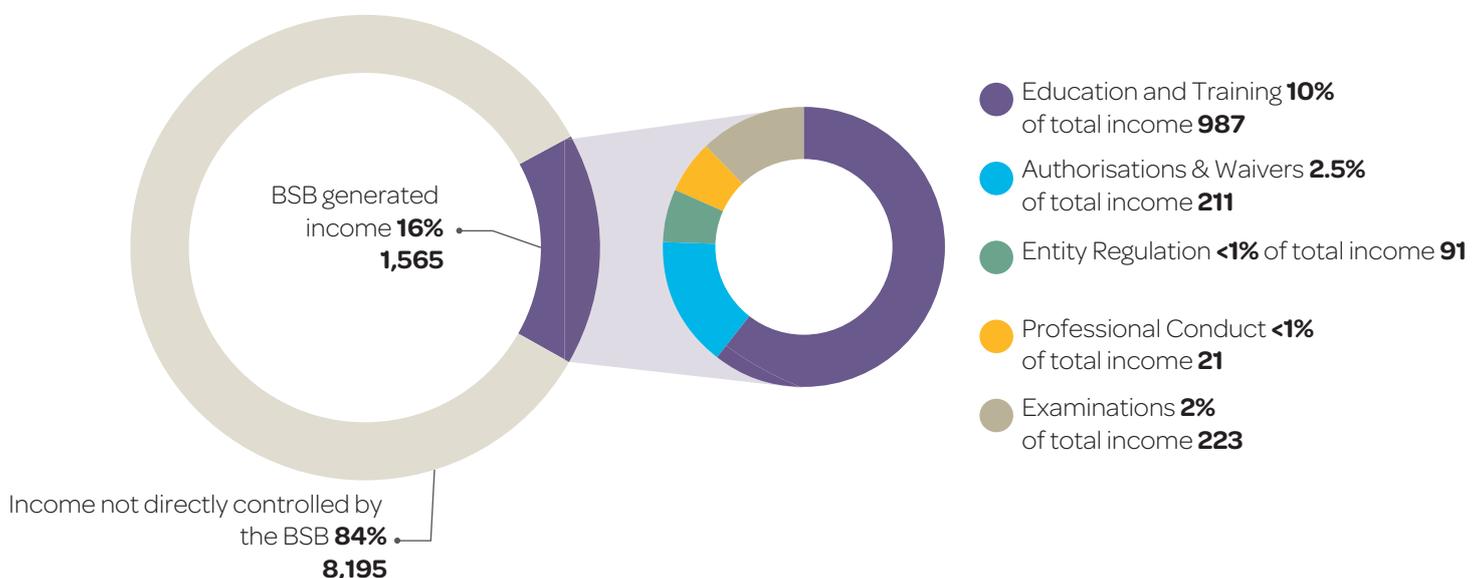
from Bar Professional Training Course (BPTC) providers, and the Bar Transfer Test (BTT). The part of the BSB's funding which comes from Practising Certificate Fees and General Council of the Bar reserves is not directly controlled by the BSB.

Income Area	£ thousands
Education and Training (Including BPTC)	987
Authorisations & Waivers	243
Examinations (Including BTT & BCAT)	223
Entity Regulation	91
Professional Conduct (Fines & Cost Recovery)	21
Total BSB Generated Income	1,565

Income from fees for the BPTC remained the most significant proportion of the BSB controlled income during 2018-19. The forecast income for the BPTC was set at £770,000 by reference to historic norms and the greater than expected income which was received in the previous financial year. However, during 2018-19, the BPTC generated an additional £196,000 of income owing to an increase in the number of students. Overall the BSB exceeded its (non-PCF) income target by £398,000 (+34%)

Total Income for the BSB	£ thousands
PCF Contributions	8,195
Planned Contributions from Reserves	0
Total income not directly controlled by the BSB	8,195
Total BSB Generated Income	1,565
Total regulatory income	9,760

BSB Income (£ thousands)



Expenditure

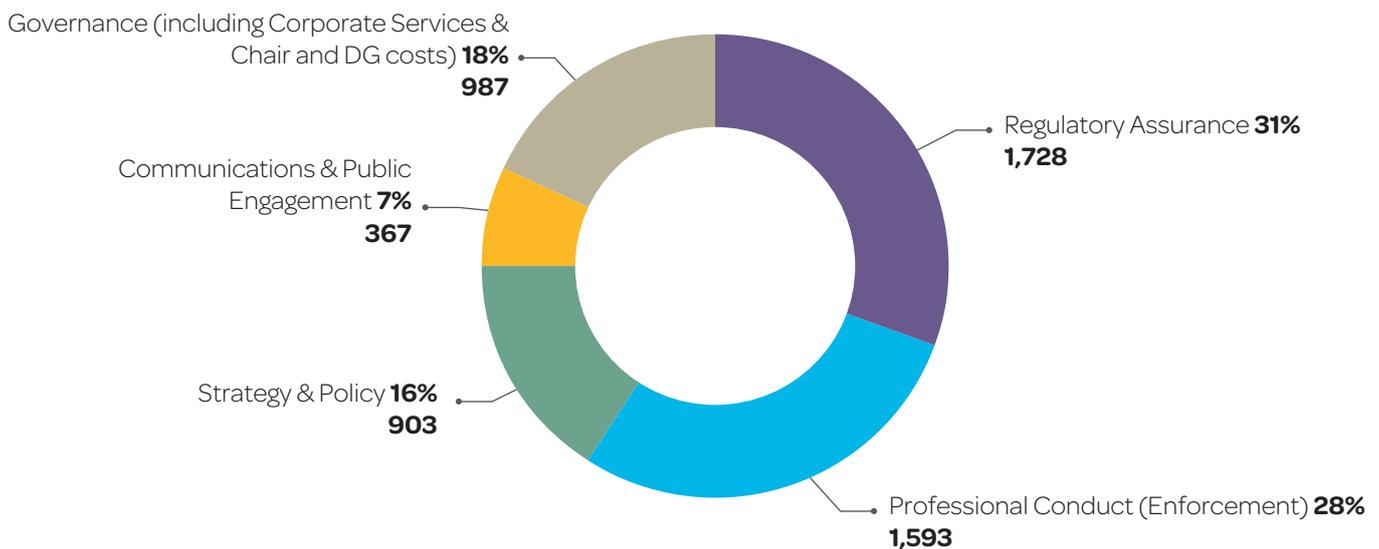
BSB directly controlled expenditure was £5,578,000 against a budget of £5,561,000, a £17,000 (less than 1%) overspend. The full cost of regulation includes an allocation of shared costs (IT, Finance, HR and Premises costs) from the Bar Council Resources Group. The Resources Group expenditure budget is managed separately, outside the direct control of the BSB, and is apportioned to the organisation. During 2018-19, our share of Resources Group costs was higher than anticipated and this is the main reason why we are reporting a deficit.

Department

£ thousands

Regulatory Assurance	1,728
Professional Conduct (Enforcement)	1,593
Strategy & Policy	903
Communications & Public Engagement	367
Governance (Including Corporate Services & Chair and DG costs)	987
Total Direct BSB Expenditure	5,578
Resources Group allocation & adjustments	4,374
Total cost of regulation	9,925

Direct BSB Expenditure (£ thousands)



Staff related costs

Overall staff related costs were £4,483,000 (more than 2% underspent). We ended the year with staff turnover of 28%. Any salary savings achieved from vacancies were offset by recruitment related expenses and temporary cover for business critical roles.

Non-staff costs

Total non-staff expenditure was £1,095,000 (a £129,000 or 13% overspend). The majority of the overspend was for additional expenditure on centralised examinations. We have continued to modernise our approach to centralised examinations and to ensure we adhere to good practice – we therefore added greater rigour to the ethics assessment process and in so doing incurred expenditure which we had not planned at the time of setting the budget.

Monitoring Expenditure

We pay close attention to how we spend our money:

- 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 manage;
- Each month we receive detailed management accounts 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 key priorities; and
- Our financial performance is scrutinised by our Planning, Resources and Performance Committee (PRP).

Remuneration and expenses

	Salary / Fees	Pension	Allowance	Total	Expenses incurred in relation to BSB business
Dr Vanessa Davies	£156,234	£29,059	£1,300	£186,593	£314
Baroness Tessa Blackstone	£90,000	–	£1,300	£91,300	£67
Ms Naomi Ellenbogen QC	£37,030	£2,074	£260	£39,364	£146
Ms Alison Alden OBE	£9,240	–	–	£9,240	£879
Mr Aidan Christie QC	£9,240	–	–	£9,240	–
Ms Justine Davidge (until 31 December 2018)	£6,930	–	–	£6,930	£764
Ms Judith Farbey QC (until 31 July 2018)	£3,080	–	–	£3,080	–
Ms Lara Fielden	£9,240	–	–	£9,240	–
Mr Steven Haines	£9,240	–	–	£9,240	–
Ms Zoe McLeod	£9,240	–	–	£9,240	–
Mr Andrew Mitchell QC	£9,240	–	–	£9,240	–
Ms Irena Sabic (from 1 January 2019)	£2,310	–	–	£2,310	–
Ms Nicola Sawford	£9,240	–	–	£9,240	–
Ms Kathryn Stone OBE	£9,240	–	–	£9,240	£943
Mr Adam Solomon QC	£9,240	–	–	£9,240	–
Ms Anupama Thompson (until 28 February 2019)	£8,470	–	–	£8,470	–
Mr Stephen Thornton CBE	£9,240	–	–	£9,240	£853

Notes:

- Expenses include a reimbursement of costs incurred on BSB business, including travel and subsistence.
- Board member positions do not attract a pension (apart from the Chair and Vice-Chair).
- Fees and expenses paid for attendance at BSB committee meetings by non-Board members are not included here.
- All staff members and office holders (Chair & Vice Chair) receive an allowance of £1,300 in addition to basic salary.

Annex 1

2018-19: What we said we would do and what we delivered

The table below shows the commitments that we made in our 2018-19 Business Plan and a short update of the progress we made during the year.

Strategic Programme 1 – Regulating in the public interest

Activity:	Progress:
Updating the BSB Handbook	<ul style="list-style-type: none"> • New statutory powers of intervention came into force on 23 November 2018. • New Bar Qualification Rules came into force on 1 April 2019 following approval by the LSB.
CMA – Transparency	<ul style="list-style-type: none"> • We commissioned a report from YouGov and London Economics on Consumer Behaviour and Attitudes towards Price and Service Transparency in order to inform our proposals. • We consulted on new transparency rules and guidance obtaining good engagement from the profession. We updated our proposals in the light of feedback. The new rules went live in July 2019 following LSB approval. • There is an implementation period until January 2020 before we start spot checking for compliance at the Bar.
CMA – Independent Feedback Platforms	<ul style="list-style-type: none"> • Two sets of guidance were produced and published in June 2018: <ul style="list-style-type: none"> • a good practice guidance document for the profession; and • a guidance document for consumers on engaging with feedback. <p>Both guidance documents were developed with input from a range of stakeholders including chambers, barristers' clerks and the Legal Services Consumer Panel.</p> <ul style="list-style-type: none"> • The evaluation work on the feedback workstream has been put back to May 2021 at the earliest, so it can be done within the wider CMA evaluation programme. This is in line with the BSB's CMA Action Plan which stated the review date for the changes on feedback and transparency would be two years after they come into force.
Entity & ABS Regulation	<ul style="list-style-type: none"> • As of 31 March 2019, we had 98 active Authorised Bodies (Entities) and 10 active Licensed Bodies (ABS). • An annual renewal process was successfully carried out in March.

Anti-Money Laundering	<ul style="list-style-type: none"> • We completed a spot check of compliance with the new rule introducing a requirement on barristers to get a basic Disclosure and Barring Service check if carrying out work within the remit of the Money Laundering Regulations. • A new declaration during the annual Authorisation to Practise process gave us good information about which barristers carry out work within the Money Laundering Regulations. In particular, it allowed us to identify which barristers conduct work in higher risk areas such as Trust & Company Service Providers. A supervision visit programme has been designed and visits will commence during 2019-20. • We were audited by the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) in October 2018. Its report was broadly consistent with our own assessment of compliance with the OPBAS sourcebook standards. An action plan is now in progress to strengthen our supervision under the Money Laundering Regulations.
Enforcement	<ul style="list-style-type: none"> • The Annual Enforcement Report for 2017-18 was published in September 2018.
Regulatory Risk	<ul style="list-style-type: none"> • We have undertaken further embedding of our risk-based approach to regulation across everything we do and introduced monitoring of evidence against all our regulatory risks with regular reporting to the Board. This has included the establishment of a Risk Reporting Officer in every BSB Department and regular Risk Forum meetings to ensure discussion of our regulatory risks across the organisation. We delivered training where needed. • We published a new Risk Outlook alongside the new 2019-22 Strategic Plan. • The Board has considered amendments to the Risk Index and a new version will be published during 2019-20.

Equality and Access to Justice	<ul style="list-style-type: none"> • We have established an Equality and Diversity Programme Board to co-ordinate our work in this area and have set up a Race Equality Task Force. • We did not undertake the planned survey on the profession's experience of discrimination because the Bar Council undertook something very similar. We are considering what the Bar Council published and its implications for our work over the next year. • Our vulnerability guidance for barristers was launched successfully in April 2018. • We consulted on sexual orientation and religion and belief data monitoring. Stakeholders mostly supported our proposals to amend our rules and we are therefore proceeding with a rule change application to the LSB. • We established a scheme to enable pilot support schemes for people who have experienced harassment.
Professional Practice – Scope of Practice	<ul style="list-style-type: none"> • We published research on qualified persons and undertook a review of our scope of practice arrangements.
Professional Practice – Immigration	<ul style="list-style-type: none"> • Guidance was published in April 2018.
Professional indemnity insurance (PII)	<ul style="list-style-type: none"> • We have reviewed how we set PII requirements for the Bar, which included a review from first principles of whether the BMIF model continues to be the right thing for the Bar. • In the light of this review, we have agreed a number of improvements to our governance arrangements with BMIF, including a new Memorandum of Understanding with them and stronger BSB oversight of their insurance terms and how it is administered. • This will lead to the BSB publishing, for the first time, minimum terms of cover for the self-employed Bar. We have also agreed to require single person entities to insure with BMIF. We will progress this as a rule change application with the LSB.

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

Activity:	Progress:
Future Bar Training – Rule changes	<ul style="list-style-type: none"> • New Bar Qualification Rules went live on 1 April 2019 when an implementation schedule was also announced. • We also published a new Bar Qualification Manual on 1 April which consolidates the previous BPTC Handbook, Pupillage Handbook and other information on the website into one set of information for anyone wanting to learn more about the training and qualification of barristers. • We signed a Memorandum of Understanding with the Inns of Court, who continue to have a vital role in the education, training and qualification of barristers.
Future Bar Training – implementation of the Authorisation Framework	<ul style="list-style-type: none"> • The Authorisation Framework and guidance document was developed further and published in December 2018. • On 1 April 2019, we published a new Curriculum and Assessment Strategy for the vocational component. <p>AETOs wishing to providing training for the vocational component of learning to become a barrister were able to start applying for authorisation via a new digital portal from 1 April 2019.</p>
Future Bar Training – examinations	<ul style="list-style-type: none"> • We agreed the format and commenced the design of the new Civil Litigation examination in March 2019.
Future Bar Training – Pupillage project	<ul style="list-style-type: none"> • A pilot for implementing the use of the Professional Statement to supervise those undertaking pupillage / work-based learning continued, receiving a lot of positive feedback from participants. • We conducted a programme of engagement to raise awareness of the new rules on pupillage / work-based learning component. • Our work to review the way in which pupillages are advertised and recruited for continued.
Future Bar Training - Evaluation	<ul style="list-style-type: none"> • We have appointed a specialist supplier to design an evaluation programme for our Future Bar Training work.
CPD / assuring standards of practice	<ul style="list-style-type: none"> • We undertook our first spot check under the new CPD scheme for established practitioners revealing generally high levels of compliance during the first year of the scheme's operation. • An evaluation of that CPD scheme is underway.
Public and licensed access	<ul style="list-style-type: none"> • We reviewed the requirements for public and licensed access. After amending the public access training requirements, we renewed the contracts with providers.

Strategic Programme 3 – ensuring a strong and sustainable regulator

Activity:	Progress:
Governance Recruitment	<ul style="list-style-type: none"> • Two lay, independent (non-Board) members of the Governance, Risk and Audit Committee were appointed in June 2018, one taking up appointment immediately and one at the end of the year (to fill the vacancy that arose when a member concluded their term). • A barrister Board member was recruited in late 2018, taking up her position from 1 January 2019. • Further barrister Board member recruitment was undertaken during February and March 2019 to fill two vacancies.
Assurance, governance, risk and audit	<ul style="list-style-type: none"> • We began scoping the likely revisions to internal governance arrangements, whilst we awaited the LSB's publication of the new Internal Governance Rules in 2019-20. A formal programme management process has been established to deliver any changes necessary to ensure compliance. • We commissioned and dealt with five internal audit reports across BSB and Resources Group functions.
Board	<ul style="list-style-type: none"> • The Strategic Plan for the next three years was published at the end of March 2019, following a consultation in 2018 on the underlying risk themes and the intended strategic aims.
Advisory Pool of Experts (APEX)	<ul style="list-style-type: none"> • New expert members were appointed in June 2018 in Information Law and Data Protection (two barristers), Continuing Professional Development, Statistics, and Regulatory Policy and Theory (to fill the post that had become vacant).
Modernising decision making	<ul style="list-style-type: none"> • The introduction of the new IDB and the internal Contact and Assessment Team is expected to go live in October 2019. • A round table meeting was held as part of the consultation process in April 2018 and the consultation officially closed at the end of May. • The Board considered the outcome of the consultation and approved the revised Enforcement Decision-Making Regulations. • The recruitment process for the Chair, Vice Chair and panel members of the IDB is complete, and arrangements are currently being made for induction training and the disestablishment of the Professional Conduct Committee.

Legal support arrangements

- In November 2018, following a tender exercise, the BSB appointed Capsticks to provide external legal advice and support in relation to regulatory decision making.
- Fully researched and costed recommendations for new arrangements for Tribunal representation have been accepted. Implementation of the remuneration of prosecutors has been deferred until January 2020 and preparations are currently underway for arrangements to be in place.

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. 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

www.barstandardsboard.org.uk

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

www.linkedin.com/company/the-bar-standards-board