

**BAR  
STANDARDS  
BOARD**

REGULATING BARRISTERS

**Report on Pilot Supervision Visits  
September 2014**

Prepared by: Julia Witting, Chambers & Entity Supervisor

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## EXECUTIVE SUMMARY

### Commencement of risk-based supervision

Following the establishment of the Supervision Team in 2014, risk-based supervision has commenced. This provides the basis for constructive engagement between the BSB and those that it regulates. Supervision visits are a key tool in this new approach.

### Piloting supervision visits

The Supervision Team has developed a risk-based supervision visit programme and tested this through a number of pilot supervision visits. This paper outlines the results of the pilot.

The pilot visits have already resulted in the identification of issues in chambers visited so far and have begun to provide the BSB with information about where the key risks are in the market.

Chambers have received the visits positively and have shown an appetite to work with the Supervision Team to improve their management of risk and compliance with the BSB Handbook.

*"We were able to have an open conversation about the issues that all chambers face these days."*

*"It was a pleasure to meet with you all, and I hope that you found the exercise to be as engaging as I did."*

*"Having been quite sceptical about the value of supervision, I have to some extent changed my mind. Although our main administrative processes are good, the supervision did make us think about things that are less obviously necessary and on the whole I think this was a good thing."*

We are already seeing tangible improvements in policies, procedures and controls as a result. We believe that, with the improvements set out in this report, the visits programme can drive significant improvements in the market.

### What chambers can expect next

The Supervision Team are developing a risk-based programme of visits, drawing on information from the Impact assessment, Supervision Returns and other sources. Chambers will be selected for visits based on a prioritisation of this risk-based information.

Chambers will receive advance notice and specific information about what they need to do to prepare for a visit, including the documentation that should be sent to the Supervision Team in advance of the visit. Visits will usually be about three hours long. The agenda will be based on the five key areas outlined in Annex A and focussed on key risks that have been identified.

At the conclusion of the visit, a risk rating will be determined. Specific actions required to reduce risk will be agreed with chambers, together with a timeframe for addressing them and reporting back to the BSB on implementation. This information will be summarised in a report to chambers.

## 1. Background

### 1.1 Supervision Strategy

The BSB has published a Supervision Strategy, which explains the framework for risk-based supervision. It is available on the website here:

<https://www.barstandardsboard.org.uk/regulatory-requirements/for-barristers/supervision/>

The BSB will supervise chambers to ensure that they are managing risk effectively and are compliant with regulatory requirements. Risk-based supervision will:

- Allow the BSB proactively to identify risks and take appropriate action to prevent them from materialising;
- Encourage more effective risk management by chambers and entities and contribute to improvements in the level of compliance with regulatory requirements;
- Help to prevent negative outcomes for consumers and negative impacts on the regulatory objectives;
- Provide a means of ensuring that identified non-compliance does not recur;
- Allow the BSB to target its resources at those chambers, entities, individuals or areas that would benefit from supervisory attention; and
- Provide the basis for constructive engagement between the BSB and those that it regulates.

Following the establishment of the Supervision Team in 2014, risk-based supervision has commenced. An impact assessment has been carried out. Data from this exercise has been collected and analysed and chambers categorised as High, Medium or Low Impact, according to criteria such as the volume of new cases, the type of legal services delivered and whether or not pupillages are in place. Chambers categorised as High Impact have completed a Supervision Return. Together with other information, such as chambers referred by the Professional Conduct Department (“PCD”) according to their own risk-based assessment criteria, information from other organisations such as the Legal Ombudsman and reports from barristers, a risk-based plan for supervision activity is being developed. Supervision visits are a key tool in this plan.

In order to prepare for this, a supervision visit programme was developed and a sample of chambers was selected for pilot visits to test the programme. This paper outlines the results of the pilot visits.

### 1.2 Selection of chambers for the pilot

Thirteen supervision visits were completed for the pilot. Seven chambers were selected randomly for the pilot, ensuring coverage of chambers within and outside London, small (under 20 members) and large chambers, and a range of practice areas. As the pilots progressed, the Supervision Team decided to include some risk-based visits in the pilot, prioritised following referrals from PCD. There were six risk-based visits.

Visits were carried out by the four members of the Supervision Team who will be primarily involved in implementing risk-based supervision. Two lay members of the Supervision Committee, including the Chair, accompanied staff on a visit each as observers to provide independent feedback. In addition, personnel from the Legal Services Board accompanied

the team on a visit as part of the preparations for entity authorisation and gave very positive feedback.

### **1.3 About the supervision visits**

All chambers must ensure that they are compliant with the regulatory requirements set out in the BSB Handbook. This includes a requirement to have appropriate risk management procedures in place.

The BSB has identified a number of key processes that it expects competently administered chambers to be managing in order to ensure compliance with the BSB Handbook. These can be summarised into the following five key areas:

1. Governance and administration of chambers.
2. Provision of services to clients.
3. Equality and diversity.
4. Pupillage.
5. Financial management.

The supervision visit programme is based on these five areas, which are described in more detail in Annex A.

For the pilot visits where chambers were selected at random, all five areas were covered. For the risk-based visits, the focus was on the areas identified as high risk.

Visits were scheduled to last three-hours, during which the Supervision Team requested to meet with the following (not all were required to be present for the full three hours):

- Head of Chambers and other senior barristers where relevant, such as Head of the Pupillage Committee
- Practice Manager, Chief Executive or Business Development Manager, where in post
- Senior Clerk
- Equality and Diversity Officer/Diversity Data Officer
- Pupils, in some cases

Chambers were given at least 2 weeks' notice of visits.

Information was requested in advance. In addition, we carried out a desk-based review of information held by the BSB prior to visiting.

Following each visit, we prepared a report to chambers to provide feedback on any issues identified (i.e. risks not managed and non-compliance with the Handbook). The report included a risk rating of chambers, based on the information gathered and the nature of the issues identified. Our aim was to agree these issues and the risk rating during the visit so there were no surprises in the report. Chambers were asked to respond to the Supervision Team with updates on actions according to the agreed timeframe.

## 2. Outcomes from the first thirteen visits

### 2.1 Risk ratings

Following a supervision visit, chambers were classified by the Supervision Team as either High, Medium or Low Risk. These categories are explained in Annex B. The thirteen chambers visited were assessed as follows:

	Number of chambers assessed in each category
High Risk	6
Medium Risk	4
Low Risk	3

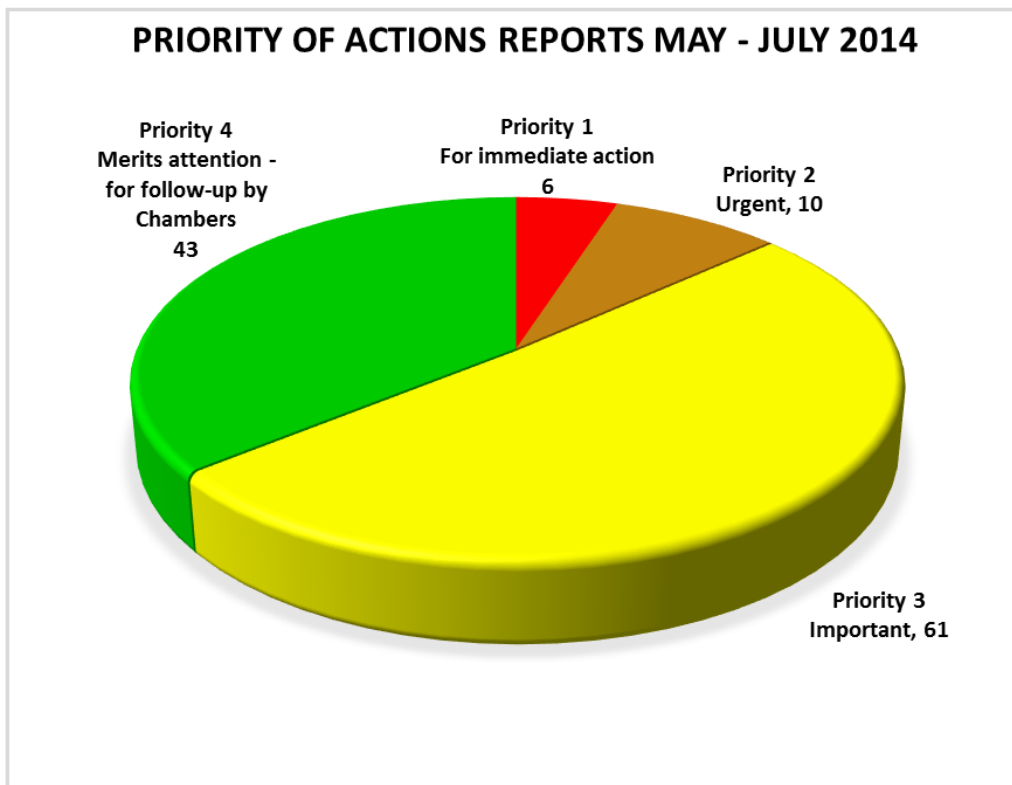
Five of the six High Risk chambers were selected on the basis of risk, due to referrals from PCD. The sixth chambers was selected randomly.

Half of the chambers assessed as High or Medium Risk were located outside of London. All three Low Risk chambers were located in London and were from the random selection.

### 2.2 Priority of issues identified

We prioritised the actions arising from the visits into one of four categories as follows. These categories are explained in Annex C. Chambers are required to provide updates on action taken on Priority 1 to 3 issues.

120 actions were raised in total, which were split as follows:

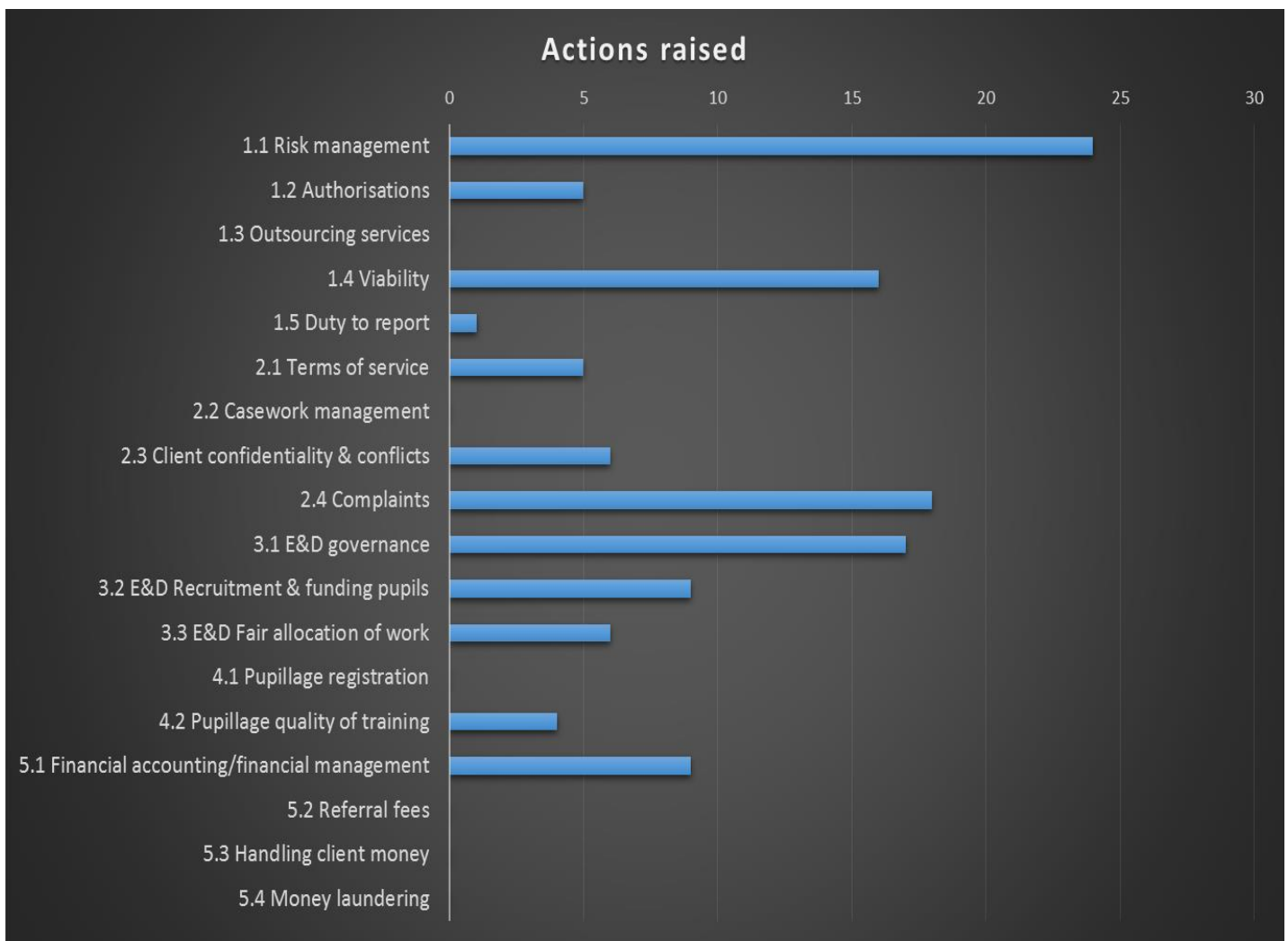


Of the six Priority 1 actions, five related to the financial viability of three chambers that were selected for visits on a risk basis. The actions required the respective chambers to keep the BSB informed if, at any stage, there is an increased likelihood that the chambers will be forced to close. These chambers were asked to prepare emergency procedures in the event that they were forced to close unexpectedly and to inform the BSB if and when they plan to recruit pupils again. All have been subject to ongoing monitoring since the visits. The situation at one of the chambers has now stabilised and the other chambers are still subject to close monitoring.

The sixth Priority 1 action related to delays in paying BMIF insurance premiums, which chambers was requested to address immediately.

## 2.3 Themes

The table below provides an analysis of the 120 actions raised, grouped into the key processes that are assessed during visits (see Annex A<sup>1</sup>).



<sup>1</sup> The BSB has identified a number of key processes that it expects competently administered chambers to be managing in order to ensure compliance with the BSB Handbook. These can be summarised into five key areas that we will focus on during our supervision visits:

1. Governance and administration of chambers
2. Delivery of services to clients
3. Equality and diversity
4. Pupillage
5. Financial management

More actions were raised than anticipated. Key themes include the following:

### Risk management

The majority (17 out of 24) were Priority 4 actions for chambers to follow up. Issues raised were primarily in the following areas:

- Improving risk management by drawing up a plan to articulate how chambers manages and responds to risks and uncertainty and improving risk monitoring.
- Strengthening chambers' governance arrangements by, for example, developing a chambers constitution, establishing a management committee or ensuring that chambers meetings and committee meetings are documented.
- Improving business continuity planning.

### Viability

- Eleven of the 16 actions related to the five chambers that were visited because of concerns about their financial health. Chambers were required to prepare budgets and cash flow projections, prepare contingency plans to address what needs to happen to effect an orderly wind down in the event that chambers are forced to close suddenly, and to inform the BSB immediately if closure is expected.
- In addition, we are encouraging all chambers to consider preparing such a contingency plan in the event that there is sudden closure, for whatever reason. Our guidance on chambers closure was provided and is available on the BSB website: [www.barstandardsboard.org.uk/regulatory-requirements/for-barristers/supervision/](http://www.barstandardsboard.org.uk/regulatory-requirements/for-barristers/supervision/) We have recommended to the Professional Practice team inclusion of this guidance in the next version of the Handbook.

### Complaints

This was an area of particular focus during the visits that had been triggered, at least in part, by information from the Legal Ombudsman about high volumes of complaints and/or "premature" complaints (i.e. where complainants had approached the Legal Ombudsman before complaining to chambers, suggesting that complaints procedures were not well explained to clients). Actions were agreed in the following areas:

- Improving information provided to lay clients about how to complain.
- Updating information provided to clients about the right to make a complaint to the Legal Ombudsman up to six years after the act/omission took place (which has been amended): [www.legalombudsman.org.uk/consumer/step-by-step.html](http://www.legalombudsman.org.uk/consumer/step-by-step.html)
- Improving complaints handling procedures and monitoring of complaints by chambers, including establishing benchmarks.



### Equality & Diversity

Compliance with the Equality & Diversity requirements in the BSB Handbook were not fully in place in 12 out of the 13 chambers visited. This resulted in 33 actions being raised in total in the following areas:

- Diversity Data Officer and/or Equality & Diversity Officer not yet appointed.
- Diversity data not yet collected, analysed and published.
- No Equality Action Plan in place.
- Procedures for ensuring fair allocation of work not in place, or needing improvement.
- Fair recruitment training not completed.
- Inadequate documentation of assessment criteria for recruitment that ensure a consistent and fair process.

This is an area in which significant improvements can be made and chambers welcomed support and guidance in this area. A number were keen to discuss the practical challenges in this area and we are liaising with the BSB Equality and Diversity team to feed back our findings.

For most, work to address compliance was in progress and some have already completed the actions agreed. We also saw some examples of good practice; for example, one chambers had engaged consultants to help them to develop an objective recruitment process and materials.

### Financial accounting/financial management

The nine actions raised related to the five chambers selected for visits due to concerns about their financial health, and covered improved financial planning, including preparation and monitoring of budgets, and preparation of chambers accounts.

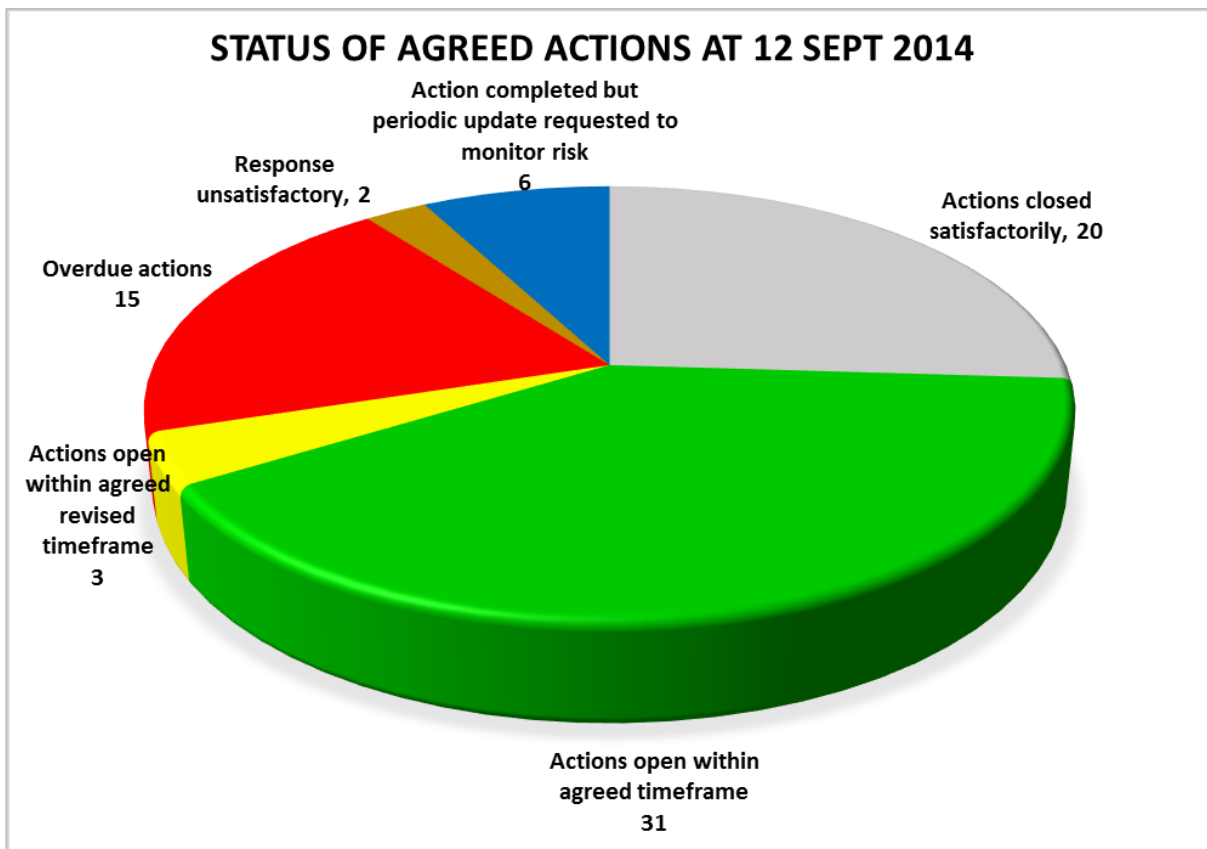
During our visits we review key financial controls and have found some basic financial controls absent in some chambers. The accounting function at one of the chambers selected on a random basis had been hit by a fraudster who had apparently been targeting the legal services market as a sector where controls are likely to be weak. That chambers had not reported the incident to the BSB and we have no data to indicate whether fraud is an issue in the market. Therefore we have asked about fraud history in the Supervision Return in order to build up a picture of the level of risk.

## 2.4 Status of actions agreed

Chambers are required to report back to the Supervision Team within the agreed timeframe for actions included as Priority 1 to 3 in the visit report. (Priority 4 actions are for follow up within chambers and are not monitored by the Supervision Team).

The following table and chart provide a summary of the status of Priority 1 to 3 actions that were agreed with chambers and included in the visit reports

As at 12 September 2014	Priority 1	Priority 2	Priority 3	Total Priority 1-3 actions
Total actions raised	6	10	61	77
Actions closed satisfactorily	1	6	13	20
Actions open within agreed timeframe	0	0	31	31
Actions open within agreed revised timeframe	0	0	3	3
Overdue actions	1	3	11	15
Response unsatisfactory	0	1	1	2
Action completed but periodic update requested to monitor risk	4	0	2	6



There remains a significant number of overdue actions where chambers have not provided an update to the Supervision Team. The follow-up process is resource-intensive for the Supervision Team for those chambers where repeated chasing is required. Extra efforts were made on later visits to ensure that chambers set and commit, during the visit, to realistic deadlines for follow-up and proactive reporting back to the Supervision Team.

Two of the overdue actions and the two actions where the response was unsatisfactory relate to one chambers which has been subject to frequent monitoring contact by the Supervision Team due to the persistently high level of risk relating to financial viability and high level of complaints.

It should be noted, however, that a third of Priority 1 to 3 actions have already been addressed by chambers. As these include actions where visits were triggered on the basis of identified risk, we are already seeing tangible improvements in policies, procedures and controls through the follow-up process. We believe that, with the improvements set out in this report, the visits programme can drive significant improvements in the market.

### **3. Outcomes: lessons learned and adjustments made**

#### **3.1 Gathering feedback**

In order to identify what went well and what could be improved, we asked those present at the supervision visits for their feedback during the visit. We also asked them to complete a short anonymous survey after the report was issued (seven people responded).

One of the Chief Executives that was involved in a pilot visit is a member of the Legal Practice Managers Association committee; we attended their lunch meeting to get further feedback and answer questions.

We also held team debriefings.

Overall, the feedback from the visits was positive and the team recorded some very encouraging comments, some of which are included for illustration in the highlighted boxes in the following paragraphs. We have also had a number of constructive suggestions from chambers that have already helped to shape the visits; these are outlined in the following paragraphs.

#### **3.2 Selection of chambers for visits**

In the survey, we asked chambers a number of questions to gauge the value they got from the visits. Most chambers were positive and their responses are summarised in the table on the following page.

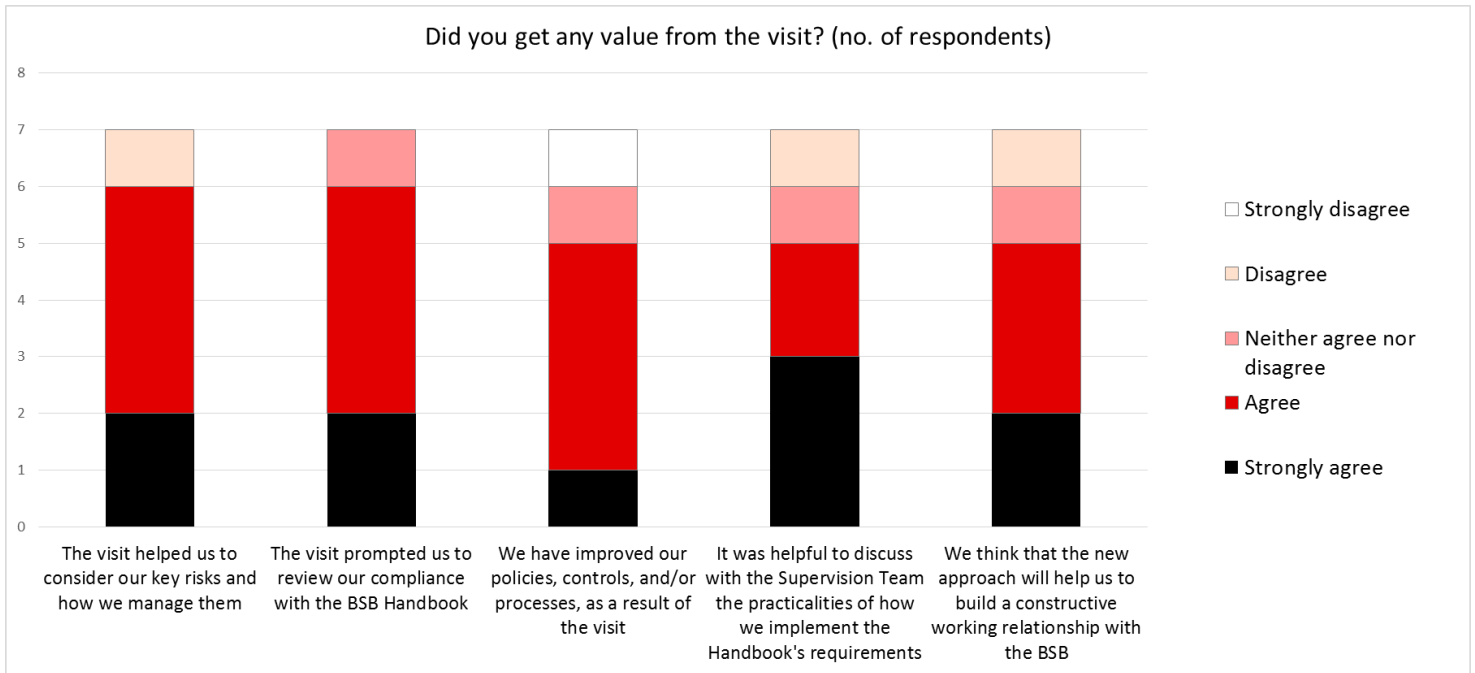
Personnel in one or two chambers questioned the value of the visits. Notably, they were amongst those that were selected on a random basis at the start of the pilot and during the visits were able to demonstrate that they were actively managing risks and their compliance obligations, resulting in few actions arising and a Low Risk rating. One said: "I honestly wonder what the BSB thinks it is going to learn by these visits."

For the Supervision Team, it was helpful to visit well-managed chambers in order to refine the visit programme and understand how good practice can be achieved. When planning the visits, this objective was stressed to chambers; in practice, however, some of these chambers were less clear about the objectives than those visited on a risk basis where the

Supervision Team were focussing on specific risks that had triggered the visits. Their more positive comments are included in the following paragraphs.

*Adjustments made*

The chambers referred to above would probably not have been visited as part of a risk-based programme of supervision. This shows the importance of developing an effective risk-based approach in order to optimise both the BSB's and chambers' time and resources. This is being achieved through the Impact Audit Survey, the Supervision Returns and the gathering of other risk-based information from various sources.



**3.3 Format of the visits**

The visits were scheduled to last for 3 hours. A key aim was to establish a basis for constructive engagement with chambers by setting a tone for the visits that is supportive, proactively helping to promote good practice and compliance with the Handbook, pre-empting the need to resort to enforcement action when things go wrong.

There is a balance to be struck in setting the length and tone of the visits:

- The Supervision Team needs to gather sufficient information in order to make an assessment of the adequacy of controls so that the risk rating allocated is a fair reflection of the level of risk in chambers.

In a three hour timeframe, the focus is on interviewing key staff and members of chambers. There is limited time available to look at supporting documentary evidence during visits. The Supervision Team have discussed with members of the Supervision Committee whether this approach is sufficient to unmask any serious problems or issues, particularly given the objective to set a constructive tone.

### ***Chambers welcomed the tone set by the Supervision Team***

*"I hadn't fully grasped that the intention of the visit was to assist and help chambers, I thought it was to check what we might be doing wrong. However, at the meeting itself it quickly became apparent that the BSB are offering assistance, guidance and help. The meeting was clear and the follow up letter clearly stated the objectives that chambers should concentrate on to improve certain aspects. I did not find that the process, in any way, set out to be critical."*

*"I felt very relaxed with the Supervision Team and found them extremely easy to talk to."*

*"We were able to have an open conversation about the issues that all chambers face these days."*

*We particularly found that staff in chambers outside London, who have fewer opportunities for networking, welcomed the opportunity to learn about good practice.*

- The duration of the visit, and the regulatory burden, needs to be proportionate to the level of risk.
- Chambers are generally run with lean staff resources and barristers who attend are giving up income-generating time or need to arrange time at the end of a day in court. Some of the feedback received highlighted that a three hour visit is challenging in this respect.
- The Supervision Team needs to be able to allocate its limited resources efficiently and on the basis of risk prioritisation.

#### *Adjustments made*

The Supervision Team are of the view that key risk areas can be covered in the allotted time and the issues that have been identified during the pilots reflect this, with the following adjustments:

- a) Future visits will be arranged on the basis of the Impact assessment, the Supervision Return and other risks identified; visit plans will therefore be focussed on the most relevant areas of the programme. For example, for a chambers identified as having pupillage issues or concerns about financial viability, the visit could focus on the relevant parts of the programme only, with a risk-based assessment made as to whether subsequent monitoring is required in other areas. This would allow for a more in-depth assessment of specific areas of concern.

The Supervision Team's records would need to reflect that, and a clear message given to chambers that the risk rating reflects the limited scope.

- b) We will be more specific in the information that we request in advance of the visit, so that we can save time in visits by better preparation, and so that we have documentary evidence for key risk areas (see para. 3.4 below).
- c) As part of the Supervision Return process, the Supervision Team is establishing a portfolio arrangement whereby chambers are allocated to each team member on a relationship management basis. This will help the Supervision Team to build their knowledge of the risk profile of individual chambers.

- d) We will make it clearer when arranging visits that staff and barristers can be seen in succession, according to the topic, and do not need to be present for the full duration of the visit.
- e) Where three hour visits are not practical for chambers, visits may be split.

### 3.4 Information requested in advance

- a) One of the chambers selected in the early stages of the pilot programme felt that there had been a lack of guidance about what they were supposed to produce for a supervision visit.

*“Goodness knows how much time I’ve spent on preparing for the supervision visit”*

*“A great deal of time could have been saved if we had known the specific format and requirements”.*

- b) In the first visits that we arranged, we advised chambers to prepare by gathering relevant policies, procedures and monitoring reports so that they were available to view during the visit, and suggested that if they could send copies of this information to us in advance, it would help the visit to run smoothly and efficiently. Later, we gave chambers a list of suggested documents to gather.

We found that most chambers did not send information in advance. Those that did, sent a large number of policies to us very close to the date of the visit, which gave us little time to review them before the visit. However, it was helpful to the team in preparing for the visits as chambers staff and members could refer to documents that the team had already seen.

For those that did not send documents in advance, but had them available in the visit, the team found it difficult to review the documentation effectively during the visits.

Some provided hard copies of documentation for the team to take away, but this is against departmental policy of paperless record keeping wherever possible.

Some documentation was forwarded to the team after visits, but this is inefficient for the team to monitor, delayed the prompt issuing of reports and could lead to issues being revealed after the report has been issued.

- c) Some chambers were worried about confidentiality; in particular, fearing that the Supervision Team would share information with weaker chambers, resulting in them losing their competitive edge.

#### *Adjustments made*

- a) All chambers were offered a briefing by the Supervision Team about the new supervision processes and we continue to offer this with a notice on the BSB website and an advert placed in Counsel magazine.
- b) Where visits are risk-based, we are specific in outlining the risks that we will focus on during the visit.

*“The supervision team were extremely helpful in explaining their approach and what they expected from us. That made it easy to ensure that we gave them what they required.”*

*“It was clearly expressed that the visit was to investigate certain key areas of the business with a view towards highlighting any possible issues or, specifically, any concerns that could be a risk to the public. It was also explained that were the BSB to find any such areas that they would provide guidance and assistance to make help us make corrective measures.”*

- c) Having completed the pilot visits, the Supervision Team has seen a cross section of policies, procedural documentation, client records and reports from the most commonly used clerking IT systems, which provide the best supporting evidence for the key controls in the five areas that are reviewed. We have now prepared a short list of key documents that we request to be sent 7 days in advance of a visit. So far, this been achievable and it has helped the Supervision Team to identify key risks in advance of visits.
- d) The letter that we send to chambers is explicit about maintaining confidentiality of documentation.

We have also discussed this issue with the LPMA committee members, explaining that whilst we aim to promote good practice in the interests of protecting the public interest, we will not share commercially sensitive information.

### **3.5 Notice period**

A notice period of two weeks was set as the benchmark for visits because the Supervision Team will sometimes need to respond quickly to information about heightened levels of risk in some chambers. Most respondents to the survey said that the notice period was “fine”. In particular, for the visits that were triggered by specific risks, we found that this timeframe was achievable.

Most chambers had put a significant amount of work into preparing for the visit.

*One Chief Executive asked us to be aware that chambers that are managing their risks well and take pride in the quality of their administration, will want to ensure that all evidence is in place prior to the visit. They should therefore be allowed sufficient time to gather evidence, taking into account the limited resources that they have to do so.*

From the dates recorded on policies and procedural documentation, it was clear that a considerable amount of work in most chambers had gone into ensuring that all policies and other documentation was up to date. Where this had not been achieved prior to the visit, there was an awareness of the areas where improvements needed to be made.

#### *Adjustments made*

A key aim of proactive supervision is to raise standards of good practice, pre-empting the need for enforcement when things go wrong. Therefore if chambers are taking the opportunity of a supervision visit to update policies and review compliance gaps, this is to be supported and the notice period will be increased where there is no specific and urgent public interest concern.

### 3.6 Supervision visit programme

The supervision visit programme was developed on the basis of the five key areas that were identified in the BSB's draft risk framework, and specific areas to be covered were linked to the Handbook, to provide clear rationale for the areas covered during the visits. Chambers were sent a copy of the programme (included in Annex A) in advance and found it helpful in providing clarity on the areas of focus during the visits.

In the survey, six out of seven respondents thought that we focussed on the most important processes, risks, and controls, during the visit.

One respondent felt that the programme was not sufficiently focussed on the key risks, in particular with too much focus on financial management of the operating costs.

#### *Adjustments made*

In future, our visits will be informed by risk-based information, including the Impact Audit Survey, the Supervision Return and information received from other sources. Visits to chambers that resulted from assessment of risk-based information have been tailored to the relevant risks and consequently much more focussed in scope and outcome, and chambers have found the visits more valuable as a result.

In general, the visit programme is a useful tool for the Supervision Team and chambers in terms of identifying the areas for supervision to focus on. It is important that the programme remains under review so new risks are accounted for when they are identified. Two particular areas of risk have been identified and have been explicitly added to the visit programme, namely chambers governance arrangements and adequacy of information risk management, including in connection with IT systems and mobile devices.

#### *Feedback after a visit to chambers triggered by significant risks identified:*

*"Thank you for coming to see us yesterday .... Your prompts and suggestions were very useful and will be incorporated into the reshaping of our business moving forward."*

### 3.7 Timeframe for issuing reports

The Supervision Team has grown in size and has a number of calls on its time, including supporting the entity authorisation project. It is important to turn reports around promptly after visits to ensure momentum is kept where key risks are identified.

#### *Adjustments made*

We have now set a commitment to report to chambers within one week of the visit date. When supervision visits are arranged, the following day is booked for a member of the Supervision Team to write up the report. This timeframe is now being consistently met.

### 3.8 Quality control

In the event of dispute or complaint, we may need to refer to records of our visits.

#### *Adjustments made*

We are documenting our processes as we develop them. These will be consolidated in to a Supervision Manual so that there is consistency in the quality of the work that we do.



#### 4. Conclusion and Next Steps

The pilot visits programme has been successful in identifying areas for improvement in chambers. The process has been well received by chambers, who have generally appreciated a more constructive relationship with the BSB. As a result, tangible improvements have been made to governance, risk management and service delivery at most of the chambers involved in visits.

This report explains some of the adjustments that have been made during the pilot phase and following a review of the entire pilot.

Visits will now be rolled out as part of the BSB's wider risk-based approach to supervision. Future visits will have the following key features:

- They will be informed by risk-based information, including the Impact Audit Survey, the Supervision Return and information received from other sources. Visits will therefore be targeted at higher risk chambers and tailored to the specific risks at these chambers.
- Visits will usually last 3 hours, although follow up visits may be scheduled if further time is needed.
- Chambers may be given more than 2 weeks' notice of a visit where there is not a pressing need for a more urgent visit.
- Specific documentation will be requested from chambers, to be submitted a week in advance of a visit. The details will be set out in a letter when the chambers is first notified of the visit.
- Chambers will receive a report within one week of a visit. The report will explain whether the Supervision Team has assessed chambers as Low, Medium or High Risk. It will also confirm the actions that are expected from chambers that were agreed during the visit.

The Supervision Team will continue to seek formal feedback following all visits and will keep the visits programme under review to identify potential improvements.

## ANNEX A: SUPERVISION VISIT PROGRAMME

### Chambers Key Processes

All chambers must ensure that they are compliant with the regulatory requirements set out in the BSB Handbook <https://www.barstandardsboard.org.uk/regulatory-requirements/bsb-handbook/>. This includes a requirement to have appropriate risk management procedures in place.

The BSB has identified a number of key processes that it expects competently administered chambers to be managing in order to ensure compliance with the BSB Handbook. These can be summarised into the following five key areas that we will focus on during our supervision visits.

#### 1. Governance & Administration of Chambers

##### 1.1 Risk management

###### Handbook Core Duties

CD10: You must take reasonable steps to manage your practice, or carry out your role within your practice, competently and in such a way as to achieve compliance with your legal and regulatory obligations.

###### Handbook outcomes: Section C5

oC24: Your practice is run competently in a way that achieves compliance with the Core Duties and your other obligations under this Handbook. Your employees, pupils and trainees understand, and do, what is required of them in order that you meet your obligations under this Handbook.

###### Key processes: rules rC76-78 & rC89

- Risk management.
- Insurance.

##### 1.2 Authorisations

###### Handbook Core Duties

- CD2: You must act in the best interests of each client
- CD7: You must provide a competent standard of work and service to each client
- CD10: You must take reasonable steps to manage your practice, or carry out your role within your practice, competently and in such a way as to achieve compliance with your legal and regulatory obligations.

###### Handbook outcomes: section D2

- oC24: Your practice is run competently in a way that achieves compliance with the Core Duties and your other obligations under this Handbook. Your employees, pupils and trainees understand, and do, what is required of them in order that you meet your obligations under this Handbook.
- o30: Barristers undertaking public access or licensed access work have the necessary skills and experience required to work on that basis
- o31: Barristers undertaking public access or licensed access work maintain appropriate records in respect of such work
- o32: Clients only instruct via public access when it is in their interests to do so and they fully understand what is expected of them

###### Key processes: rules rC89, rC119-141 & rQ130-131

- Practising certificates.
- CPD.
- Registrations for Public Access work and Litigation.
- Procedures for public access and licensed access work.

## 1. Governance & Administration of Chambers

### 1.3 Outsourcing services critical to the delivery of legal services

#### Handbook Core Duties

- CD7: You must provide a competent standard of work and service to each client

#### Handbook outcomes: section D2

- oC24: Your practice is run competently in a way that achieves compliance with the Core Duties and your other obligations under this Handbook. Your employees, pupils and trainees understand, and do, what is required of them in order that you meet your obligations under this Handbook.
- oC25: Clients are clear about the extent to which your services are regulated and by whom, and who is responsible for providing those services.

#### Key Processes: rule rC86

- Contracts
- Performance management.

### 1.4 Viability

#### Handbook Core Duties

- CD2: You must act in the best interests of each client
- CD3: You must act with honesty and integrity
- CD7: You must provide a competent standard of work and service to each client
- CD10: You must take reasonable steps to manage your practice, or carry out your role within your practice, competently and in such a way as to achieve compliance with your legal and regulatory obligations.

#### Handbook outcomes: sections C4 & C5

- oC22: The public have confidence in the proper regulation of persons regulated by the BSB
- oC23: The BSB has the information that it needs in order to be able to assess risks and regulate effectively and in accordance with the regulatory objectives
- oC24: Your practice is run competently in a way that achieves compliance with the Core Duties and your other obligations under this Handbook. Your employees, pupils and trainees understand, and do, what is required of them in order that you meet your obligations under this Handbook.

#### Key processes: rules rC72 & rC89

- Chambers administration.
- Staff competency.
- Arrangements for the orderly wind down of activities.

### 1.5 Duty to report

#### Handbook Core Duties

- CD2: You must act in the best interests of each client
- CD3: You must act with honesty and integrity

#### Handbook outcomes: section C4

oC22: The public have confidence in the proper regulation of persons regulated by the BSB  
oC23: The BSB has the information that it needs in order to be able to assess risks and regulate effectively and in accordance with the regulatory objectives

#### Key processes: rules rC66

- Serious misconduct by a barrister is reported to the BSB

## 2. Provision of services to clients

### 2.1 Terms of service

#### Core Duties

- CD5: You must not behave in a way which is likely to diminish the trust and confidence which the public places in you or the profession.
- CD7: You must provide a competent standard of work and service to each client

#### Handbook outcomes: section C3 & 5

- oC13: Clients know what to expect and understand the advice they are given
- oC14: Care is given to ensure that the interests of vulnerable clients are taken into account and their needs are met
- oC18: Clients are adequately informed as to the terms on which work is to be done
- oC20: Clients understand who is responsible for work done for them
- oC25: Clients are clear about the extent to which services are regulated and by whom, and who is responsible for providing those services

#### Key processes: rules rC15, rC19 & rC22:

Terms of service agreed in writing.

### 2.2 Casework management

#### Core Duties

- CD7: You must provide a competent standard of work and service to each client

#### Handbook outcomes: section C3

##### Outcomes:

- oC10: Clients receive a competent standard of work and service.
- oC16: Instructions are not accepted, refused or returned in circumstances which adversely affect the administration of justice, access to justice or the best interests of the client.

#### Key processes: rules rC15 & rC18 & rC21 & 25-27

- Confirming barristers have time to deal with each case before accepting instructions.
- Procedures for returning instructions in accordance with the Handbook.

### 2.3 Client confidentiality & conflicts of interest

#### Core Duties

- CD6: You must keep the affairs of each client confidential

#### Handbook outcomes: section C3 & C5.3

- oC11: Clients best interests are protected and promoted by those acting for them
- oC12: BSB authorised persons do not accept instructions from clients where there is a conflict between their own interest and the clients' or where there is a conflict between one or more clients
- oC15: Clients have confidence in those who are instructed to act on their behalf
- oC24: Your practice is run competently in a way that achieves compliance with the Core Duties and your other obligations under this Handbook. Your employees, pupils and trainees understand, and do, what is required of them in order that you meet your obligations under this Handbook.

#### Key processes: rules rC15, rC21 & rC89

##### Policies and procedures for dealing with:

- Management of conflicts of interest in Chambers
- Protecting confidential information
- Compliance with Data Protection legislation

## 2. Provision of services to clients

### 2.4 Complaints

#### Core Duties

- CD7: You must provide a competent standard of work and service to each client

#### Handbook outcomes: section D1.1

- oC26: Clients know that they can make a complaint if dissatisfied, and know how to do so.
- oC27: Complaints are dealt with promptly and the client is kept informed about the process

#### Key processes: rules rC99 – 109

#### Policy and processes covering:

- How clients are informed of the complaints process.
- Handling complaints.
- Record keeping and confidentiality.
- Assessing and reporting on complaint resolution and trends.
- Learning from complaints.

## 3. Equality & diversity

### All areas

#### Handbook Core Duties

- CD5: You must not behave in a way which is likely to diminish the trust and confidence which the public places in you or the profession.
- CD8: You must not discriminate unlawfully against any person

#### Handbook section outcomes: D1.2 & D1.3

- oC28: Self-employed barristers, chambers and BSB authorised bodies run their practices without discrimination.
- oC29: Pupils are treated fairly and all vacancies for pupillages are advertised openly.

#### Qualification rules B5

### 3.1 Governance

#### Key processes: rules rC12 & rC110-112

- Equality and Diversity Officer appointed
- Diversity Data Officer appointed and registered with the BSB.
- Equality & Diversity policy and implementation plan in place.
- Policies and procedures in place for:
  - Anti-harassment
  - Parental leave
  - Flexible working
  - Reasonable adjustments
  - Diversity data
- Recruitment processes in place based on objective and fair criteria.
- Information is collected, monitored, acted on and published.

### 3.2 Recruitment & funding of pupils

#### Key processes: rules rC110, rC113-118 & rQ61

- Recruitment processes.
- Pupillage panel members have received equalities/fair recruitment training.
- Vacancies advertised on Bar Council approved gateway websites in accordance with Handbook requirements.
- Adherence to BSB minimum remuneration requirements for pupils.

### 3. Equality & diversity

#### 3.3 Allocation of work to pupils & members

Key process: rules rC110-112

- Monitoring and allocation of work.

### 4. Pupillage

#### All areas

Handbook Core Duties

CD10 You must take reasonable steps to manage your practice, or carry out your role within your practice, competently and in such a way as to achieve compliance with your legal and regulatory obligations

Qualification rules B5

#### 4.1 Registration

Key processes: rules rQ37 – 53 & rQ62-67

- Chambers registered as an Approved Training Organisation.
- Barristers registered as Pupil Supervisors.
- Registration of pupillage

#### 4.2 Quality of training

Key processes: rules rQ36 & rQ54

Procedures in place for:

- Ensuring pupils receive opportunity to develop skills and experience.
- Access to Supervisor.
- Peer review.
- Appraisals.
- Training records.

## 5. Financial management

### 5.1 Financial accounting, financial management

#### Handbook Core Duties

- CD3: You must act with honesty & integrity
- CD5: You must not behave in a way which is likely to diminish the trust & confidence which the public places in you or in the profession
- CD10: You must take reasonable steps to manage your practice, or carry out your role within your practice, competently and in such a way as to achieve compliance with your legal and regulatory obligations.

#### Handbook section C5

##### Outcomes:

- oC24: Your practice is run competently in a way that achieves compliance with the Core Duties and your other obligations under this Handbook. Your employees, pupils and trainees understand, and do, what is required of them in order that you meet your obligations under this Handbook.

#### Key processes: rules r89

- Chambers are administered competently and efficiently.
- Staff are competent (experienced, trained).

### 5.2 Referral fees

#### Handbook Core Duties

- CD2: You must act in the best interests of each client
- CD3: You must act with honesty & integrity
- CD4: You must maintain your independence
- CD5: You must not behave in a way which is likely to diminish the trust & confidence which the public places in you or in the profession
- CD10: You must take reasonable steps to manage your practice, or carry out your role within your practice, competently and in such a way as to achieve compliance with your legal and regulatory obligations.

#### Handbook section C2

##### Outcomes:

oC5: Those regulated by the BSB maintain standards of honesty, integrity & independence, and are seen as so doing

oC7: The proper administration of justice, access to justice and the best interests of clients are served

oC9: Those regulated by the BSB and clients understand the obligations of honesty, integrity and independence

#### Key processes: rule rC10

- Referral fees must not be paid or received

## 5. Financial management

### 5.3 Handling client money

#### Handbook Core Duties

- CD3: You must act with honesty & integrity
- CD5: You must not behave in a way which is likely to diminish the trust & confidence which the public places in you or in the profession
- CD10: You must take reasonable steps to manage your practice, or carry out your role within your practice, competently and in such a way as to achieve compliance with your legal and regulatory obligations.

#### Handbook section C5

##### Outcomes:

- oC24: Your practice is run competently in a way that achieves compliance with the Core Duties and your other obligations under this Handbook. Your employees, pupils and trainees understand, and do, what is required of them in order that you meet your obligations under this Handbook.

##### Key processes: rules rC73-75

- Barristers & Chambers are prohibited from holding client money.
- Client money held and processed via an FCA-authorized third party payment service.
- Due diligence performed on third party payment systems.

### 5.4 Money laundering

#### Handbook Core Duties

- CD3: You must act with honesty & integrity
- CD5: You must not behave in a way which is likely to diminish the trust & confidence which the public places in you or in the profession
- CD10: You must take reasonable steps to manage your practice, or carry out your role within your practice, competently and in such a way as to achieve compliance with your legal and regulatory obligations.

##### Key processes:

Adherence to Money Laundering regulations 2007



## **ANNEX B: SUPERVISION VISIT REPORT RISK ASSESSMENT CATEGORIES**

Following a Supervision visit, Chambers are classified by the Supervision Team into one of three categories as follows:

### High Risk

There is a significant probability that issues identified from the visit may have a fundamental impact on Chambers' ability to meet the Core Duties and Outcomes set out in the Handbook. Immediate action should be taken by Chambers to mitigate the risks identified. Chambers will be subject to further monitoring by the Supervision Team as specified.

### Medium Risk

A number of important issues were identified from the visit and Chambers should address these promptly in order to meet the Core Duties and Outcomes set out in the Handbook. Chambers should report progress to the Supervision Team as specified. In other areas covered during the visit, we are satisfied that your practice is managed competently and in such a way as to achieve compliance with your legal and regulatory obligations.

### Low risk

In the areas covered during the visit, we are satisfied that your practice is managed competently and in such a way as to achieve compliance with your legal and regulatory obligations. Some issues where controls could be strengthened may have been identified and these should be followed up by Chambers. No further monitoring by Supervision is planned based on the outcome of this visit unless other information comes to our attention.

## **ANNEX C: SUPERVISION VISIT REPORT PRIORITY OF ACTIONS**

We prioritised the actions that we require Chambers to take into one of four categories as follows.

The timeframes provide a guide that is intended to help Chambers to understand the level of risk that we have assessed for each finding.

*We recognise that it may not be possible for all issues identified to be resolved within the timeframes shown below (for example if a longer term solution to a control weakness is proposed by you) but we would expect chambers to have a clear action plan in place within the timeframe specified and ensure that the risks are managed in the interim.*

### Priority 1: for immediate action

Areas of high risk where further information is required by the Supervision Team, by return in response to this letter, in order to provide assurance that the risk is being managed effectively.

*or*

Areas of high risk where we require you to update the Supervision Team immediately should circumstances change or as further information is received which increases or reduces the level of risk.

### Priority 2: urgent

Matters where a high risk and weaknesses in controls have been identified and urgent action is required to mitigate the risk. We would normally expect Chambers to address these issues immediately and provide a follow-up to Supervision within the next 2 weeks.

### Priority 3: important

Matters where a medium to high risk and weaknesses in controls have been identified and prompt action is required to mitigate the risk. We would normally expect Chambers to address these issues and provide a follow-up to Supervision within the next month.

### Priority 4: merits attention

Other areas where controls could be strengthened. We do not require you to report to the Supervision Team on follow-up of these findings, but they should be followed up by Chambers.