



# **Appointment of Committee Members**

## **Application Pack**

December 2015 - January 2016

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# Bar Standards Board

## Introduction

The Bar Standards Board was established in January 2006 as a result of the Bar Council separating its regulatory and representative functions. We are an independent regulatory board responsible for regulating barristers called to the Bar of England and Wales.

Our mission is to regulate the Bar so as to promote high standards of practice and to safeguard clients and the public interest. We do this by setting standards of entry to the profession and by ensuring that professional practice puts consumers first. Our responsibilities cover the following key activities:

- Setting the qualifications and conditions for entry to the profession;
- Setting continuing training requirements;
- Setting standards for those practising at the Bar and enforcing professional rules of conduct;
- Monitoring the service provided by barristers to deal with areas of risk and to assure quality;
- Handling complaints against barristers and students, and taking disciplinary or other action where appropriate.

The Board comprises 15 people. There are 7 practising barristers and 8 lay people. The Board has a lay majority and lay Chair, as required by the Internal Governance Rules made by the Legal Services Board. The Board is committed to regulating in the public interest and to following best practice for modern regulators.

From 1 January 2016 the Board will have five committees to help it discharge its responsibilities:

- Education & Training;
- Governance, Risk and Audit
- Planning, Resources and Performance
- Professional Conduct; and
- Qualifications.

All committees have barrister and lay members. All Board and committee members are appointed in accordance with the Seven Principles of Public Life (the “Nolan” principles), a copy of which is at Annex 2.

## Governance changes

The Bar Standards Board has recently adopted a new governance structure, which will be put in place over the coming months (see announcement on 24 November 2015).

The purpose behind the changes is to distinguish more clearly between policy-making and decision-making on individual cases and to ensure that policy development is undertaken by the executive staff, led by the Director General, and directly overseen and signed-off by the Board itself.

The Board believes that the changes it has in mind will further strengthen public confidence in the independence of the BSB and its ability to regulate the barrister profession to a consistently high standard.

The changes will devolve many decisions currently reserved at Committee level to our trained professional staff. This should speed up case work and policy development and increase our adaptability and ability to respond to new regulatory demands. The new arrangements are aimed at ensuring that we are a robust, independent, dependable and optimally-resourced organisation with a clear separation between policy and implementation.

The governance structure will look quite different when the changes are completed. The Board will have only two permanent committees in future: one focusing on finance and one focusing on risk and assurance.

The Board, the Executive and the two permanent Committees will be supported by:

- a retained pool of independent subject matter experts, including members of the Bar as well as lay figures with other kinds of relevant expertise;
- arm's-length decision-making Panels (together with the Bar Tribunals and Adjudication Service, BTAS, run in conjunction with the Inns of Court) to provide independence in our regulatory decision-making as it affects individuals, and to provide a means to review staff-based decision-making.

Policy development and decision-making on individual cases will be undertaken by the executive so far as that is possible. Where independence or a review function are required, an arm's-length panel will be used. In time, this will include activities currently undertaken by operational committees within the BSB, such as the Professional Conduct and Qualifications Committees. The final shape, form and size of these arm's length panels has not yet been decided.

These changes will take place in stages. The first changes will affect our Standards, Equality and Diversity, and Supervision Committees, which will be disbanded at the end of 2015. The Education and Training Committee will remain in existence to underpin the policy development required in the Future Bar Training Programme. Its terms of reference and membership have been refreshed in order to complement our programme management arrangements for FBT but the Committee will only remain in existence for as long as necessary to complete that programme.

The Qualifications and Professional Conduct Committees will continue to operate broadly along the same lines as they currently do, for at least the next 18 months. Opportunities to increase staff decision-making will be explored but major structural changes will require BSB Handbook amendment, a process which necessarily takes more time.

The Board will review its own size, role and composition as these new governance arrangements take effect.

These changes mark a significant new stage in the evolution of the Bar Standards Board, reflecting its need to be flexible and able to adapt to a wide variety of

circumstances. The Board is confident that these changes equip us better to fulfil our vision of becoming a more modern and efficient regulator.

### **Vacancies**

The Board wishes to appoint senior legal academic lay members to the Education and Training Committee.

“Lay members” has a special statutory definition and means only people who have never been qualified as a solicitor, barrister, public notary, licensed conveyancer or a variety of other legal professionals.

### **Time commitment**

Committee members are expected to play a full part in the work of their committee, and to prepare for and attend all meetings the committee to which they are appointed.

Meetings of the committees are usually held at 5pm on Mondays to Thursdays, to accommodate the need for self-employed barristers to be able to attend court during the day. This is an important aspect to consider in deciding whether you wish to apply for any posts.

Further details (where appropriate) and the number of meetings held per year by each committee are provided within the “BSB Committees” section below.

### **BSB Committees**

The Board has five committees, as described below.

The **Education and Training Committee** is responsible for setting the standards of education and training that people must pass before being able to practice as barristers, together with the further training requirements that barristers must comply with throughout their careers. The Committee meets approximately six times per year.

The **Governance Risk and Audit Committee** is responsible for ensuring the Board's corporate governance standards and internal controls are maintained. The Committee keeps under review and advises the Board on all matters relating to the corporate risk management framework and the BSB's internal audit function. The committee meets approximately 5 times a year.

The **Planning, Resources and Performance Committee** leads work in relation to developing strategic direction and plans for the BSB, advising the Board on developments to the planning, resource setting and performance monitoring processes and considering whether financial and operational resources are properly and effectively allocated and efficiently managed across the BSB.

The **Professional Conduct Committee** considers complaints against barristers, reaches decisions on how those complaints should be dealt with and supervises any subsequent action taken, including disciplinary action. The Committee meets every 3-4 weeks and has a heavy workload of individual cases. The Committee is divided into two teams which meet alternately, so individual members (apart from the Chair and vice-chairs) would be expected only to attend every 4-6 weeks. Members of the Committee may be called upon to provide a written analysis of individual complaints

for the Committee to consider and, where appropriate, to make initial drafts of charges for matters referred for prosecution. A range of members with expertise in particular areas of practice are important to ensure the Committee is properly informed about and understands the types of complaints that may arise in different subject areas.

The **Qualifications Committee** considers and determines applications of all types relating to qualification and training as a barrister and practice at the Bar. . It also grants waivers in respect of particular aspects of the Code of Conduct. The Committee meets 7 times a year. Members also serve on Panels which meet 6-8 times per year.

### **Criteria for appointment**

It is crucial for the integrity of the system that those appointed should be of sufficient standing, integrity and judgement to inspire public confidence in the regulatory arrangements. Candidates must be able to demonstrate that they can commit the time for this role.

Barrister applicants may be either a practising or non-practising barrister. Barristers cannot concurrently be members of a Bar Standards Board's Committee and Bar Council or any of its representative committees. If they are members at the time of appointment, they will be expected to resign from any representative committee of the Bar Council or from the Bar Council itself for the duration of their BSB appointment.

Lay members cannot be barristers or solicitors, as defined in the Legal Services Act 2007. Full time judges and tribunal chairs are not eligible for appointment in this category either, but lay magistrates and those who sit as lay members of tribunals are welcome to apply.

### **Competencies, Experience and Attributes**

#### **Core competencies for all BSB members**

All applicants are expected to be able to demonstrate the following competencies:

1. An interest in and commitment to the integrity of the justice system and diversity.
2. Understanding and knowledge of professional regulation;
3. Understanding, analysing and reaching decisions on complex or sensitive issues;
4. Working as part of a team and contributing strongly and robustly to debates to reach a collegiate decision;
5. Commitment to public interest and the "Nolan Principles" of public life.

For the full list of competencies, experience and attributes, [see annex five](#).

### **Terms and conditions**

The following is intended as a general guide; specific terms and conditions will accompany letters of appointment.

Appointments will be for a period of up to 2 years in the first instance, meaning all appointments will be until 31 December 2017 at the latest. Any possibility of renewal depends upon the outcome of further deliberations by the Board regarding its future governance arrangements.

Barrister members are not remunerated for attendance at meetings but may be able to claim travel costs, especially if based outside London.

Lay members are remunerated at a flat rate of £308 per meeting attended to cover both attendance and preparation time. Travel costs will be reimbursed within the conditions of the Bar Council's travel policy.

For interview attendance by applicants, standard class travel fares or other reasonable travel costs will be reimbursed upon production of receipts.

## **How to apply**

### **Application**

To apply please visit the About Us section of our website [www.barstandardsboard.org.uk](http://www.barstandardsboard.org.uk)

Candidates are asked to provide a covering letter outlining how they meet the competencies required for the role, together with a brief CV. Applications will be assessed only against the application. As such, it is important that candidates include all details they consider relevant.

Candidates with queries regarding the position, should contact Simon Thornton-Wood at [sthorntonwood@barstandardsboard.org.uk](mailto:sthorntonwood@barstandardsboard.org.uk) or telephone number 020 7611 1374 in the first instance to arrange an informal discussion. Applications should be submitted to John Picken, Governance Officer at [jpicken@barstandardsboard.org.uk](mailto:jpicken@barstandardsboard.org.uk).

### **Monitoring form**

It is important that the BSB should reflect the diversity of the society that the Bar serves, and applications from all sections of the community are welcomed. To enable us to monitor this properly, you are asked also to complete the monitoring form supplied with this pack.

### **Timetable**

The timetable for the process is as follows:

Closing date for applications: **Wednesday 13 January 2016**

Interviews will take place in London in the weeks commencing **25 January 2016**.

### **Interviews**

Interviews will be conducted by a selection panel made up of members of the Bar Standards Board or the relevant Committee and one independent external person.



## **Annex 1**

### **Bar Standards Board Membership**

**Chair:**

Sir Andrew Burns KCMG

**Vice-Chair:**

Ms Patricia Robertson QC - until 31 December 2015

**Barrister Members:**

Mr Aidan Christie QC

Ms Justine Davidge

Ms Naomi Ellenbogen QC

Ms Judith Farbey QC - starts 1 January 2016

Mr Andrew Mitchell QC

Mr Adam Solomon

Mr Sam Stein QC - until 31 December 2015

**Lay Members:**

Ms Rolande Anderson

Mr Rob Behrens

Dr Malcolm Cohen JP

Mr Tim Robinson

Professor Andrew Sanders

Ms Nicola Sawford

Dr Anne Wright CBE

## Annex 2

### **The Seven Principles of Public Life (“Nolan” principles)**

The Committee on Standards in Public Life in its First Report has set out '**Seven Principles of Public Life**' that it believes should apply to all in the public service. These are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## **Annex 3**

### **Excerpt from BSB Constitution**

#### **Functions of the BSB**

4. The BSB is responsible for performing all regulatory functions (as defined in section 27(1) of the Legal Services Act 2007) of the Bar Council.
5. The BSB is responsible for determining any question whether a matter involves the exercise of a regulatory function.
6. The BSB has no representative functions (as defined in section 27(2) of the Legal Services Act 2007).

#### **Duties of the BSB**

7. The BSB must act in a way which is compatible with the obligations imposed on the Bar Council or its delegate by the Legal Services Act 2007 or by any other law relating to the exercise by the Bar Council or its delegate of its regulatory functions.
8. The BSB must, so far as is reasonably practicable, act in a way:
  - (1) which is compatible with the regulatory objectives defined in section 1 of the Legal Services Act 2007; and
  - (2) which the BSB considers most appropriate for the purpose of meeting those objectives.
9. The BSB must at all times act in a way which is compatible with the principle of regulatory independence and which it considers is most appropriate for the purpose of meeting that principle.
10. The BSB must have regard to:
  - (1) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed;
  - (2) any other principle appearing to it to represent best regulatory practice;
  - (3) any guidance issued by the Legal Services Board under rule 11 of the Internal Governance Rules 2009; and
  - (4) the responsibilities and legitimate interests of the Bar Council as an approved regulator for the purposes of the Legal Services Act 2007, including the Bar Council's responsibility for oversight and monitoring of the BSB (in a manner consistent with the provisions of and made under the Legal Services Act 2007).
11. The BSB must:
  - (1) Supervise and monitor the work and conduct of any committee, sub-committee, panel, working party, body or person referred to in paragraph [14(3)] below.
  - (2) Monitor and ensure the just operation of disciplinary tribunals and any other panels assigned to determine (whether at first instance or on appeal) any issues as to the conduct of individual barristers, including whether barristers are guilty of professional misconduct or inadequate professional service or ought to be suspended from practice by reason of medical unfitness or criminal charges or convictions.
  - (3) Ensure that equal opportunity and diversity issues are taken into account in respect of regulatory functions.
  - (4) Liaise as it considers necessary or appropriate with the Bar Council, the Inns' Council, the judges, other committees of the Bar Council and

such other bodies or persons as it may consider necessary or appropriate.

- (5) Prepare and keep under review a plan for the development and effective discharge of the regulatory functions of the Bar Council.
  - (6) In connection with all matters concerning the financial and other resources provided to the BSB by the Bar Council:
    - (a) co-operate with the Bar Council; and
    - (b) comply with the relevant procedures and requirements of the Standing Orders of the Bar Council.
  - (7) In connection with the oversight and monitoring of the BSB by the Bar Council:
    - (a) co-operate with the Bar Council;
    - (b) provide to the Bar Council all information and documents which it may reasonably request; and
    - (c) comply with any reasonable request by the Chairman of the Bar Council that he or any person nominated by him should be permitted to attend any meeting of any committee, sub-committee, panel, working party or other body established under paragraph 14(3) below.
  - (8) Prepare an annual report to the Bar Council on its work for publication.
12. The BSB must act in accordance with the “Nolan” principles of public life (set out in Schedule B to this Constitution) at all times and, in particular, when appointing, or making arrangements for the appointment of, the members of any committee, sub-committee, panel, working party or other body established under paragraph 14(3) below.

### **Powers of the BSB**

13. The BSB shall have power to do all things calculated to facilitate, or incidental or conducive to, the performance of its functions or duties. This includes, but is not limited to, power to do the things set out in paragraphs 14 and 15 below.
14. The BSB shall have power:
- (1) To regulate its own procedure.
  - (2) To make such rules and/or arrangements as it considers necessary or appropriate.
  - (3) To establish, and regulate the procedure of, such committees, sub-committees, panels (including advisory panels, whether representing consumer interests or otherwise), working parties, other bodies as it considers necessary or appropriate to enable it to discharge any of its functions or duties.
  - (4) If, and on such terms as, it considers necessary or appropriate to enable it to discharge any of its functions, to delegate any of its functions to (or make or approve any arrangements for the delegation of those functions by):
    - (a) any committee, sub-committee, panel, working part or other body established under paragraph 14(3) above; or
    - (b) any other person or body.
  - (5) To invite any person to attend any meeting of the BSB in an advisory or consultative capacity.
15. The BSB (and any of its members or any other person involved in the exercise of the Bar Council’s regulatory functions):

- (1) may make representations to, be consulted by and enter into communications with any person(s) appearing to it to be relevant to its functions; and
- (2) may notify the Legal Services Board where it considers that its independence or effectiveness is being prejudiced.

## **Annex 4 – Terms of Reference of BSB Committees**

### **Annex 4a - Education and Training**

The terms of reference of the Education and Training Committee are:

1. On behalf of the BSB to provide specialist oversight of the regulation of education, training and quality assurance and for that purpose it will:
  - a. monitor action taken by the BSB;
  - b. endorse substantial and substantive policy proposals to the Board that have been developed by the BSB
  - c. actively keep under review the regulatory arrangements relating to its terms of reference and report periodically to the Board as to the need for its continued operation;
2. The BSB may direct the Education Committee as to its scope of work.;

The membership of the Education and Training Committee shall consist of:

1. A chair who shall also be a member of the BSB Board,
2. Two lay members, normally also Board members,
3. Two practising barristers, normally also Board members, and
4. two senior legal academics with experience of vocational training (in addition to the lay members above).

### **Annex 4b - Governance, Risk and Audit Committee**

The Terms of Reference of the Governance, Risk and Audit Committee are:

1. to advise the Board on the effectiveness of the corporate governance structures, and to monitor and recommend to the Board action in respect of the effectiveness of the strategic arrangements for governance, risk management and audit. This includes agreeing a programme of Board member training and development to satisfy corporate governance guidelines;
2. to monitor and recommend to the Board action in respect of the Board's management of risks, including arrangements for business continuity and disaster recovery;
3. to agree action in respect of the effectiveness of the Board's financial management and control systems, and internal business processes, including accounting policies, anti-fraud and whistle-blowing arrangements;
4. to develop the BSB's internal audit function including the appointment of the Board's Internal Auditors. To agree the annual audit plan and include any audit reviews that the Board wishes to see conducted. To monitor and recommend to the Board the results of the Board's internal audit arrangements and the effectiveness of the response to issues identified by audit activity; and

5. to review relevant assessment reports and assurance reports (including the Independent Observer) to secure an understanding of improvements that could be made and best practice revealed by such reports. To provide necessary assurances to the Board, that in turn provides assurances to the Bar Council's Audit Committee.

The membership of the Governance Risk and Audit Committee shall be:

6. A lay chair who must also be a Board member,
7. A lay or barrister vice chair, and
8. Three other members who must not be Board members.

#### **Annex 4c - Planning, Resources and Performance Committee**

The Terms of Reference of the Planning, Resources and Performance Committee are:

1. to consider, and support the Board and the executive in formulating, the overall strategy for the BSB, with particular emphasis on horizon scanning, vision, mission statement, priorities, activities and outcomes. To scrutinise the BSB's three-year strategic plan and annual business plan before the Board's signoff is sought. Agree actions to ensure that the BSB's associated strategies (Communications, IT, HR and research) are aligned to the corporate strategy;
2. to oversee operational and programme delivery (without duplicating the detailed oversight provided by any other committee or programme/project governance structure) as well as financial performance against the objectives and targets set out in the Business Plan. To support the Board and executive with finalising the BSB's Annual Report publications;
3. to consider the annual budget and revenue, in the context of the strategic and business plans, to question whether proposed funding is adequate and properly and effectively allocated across the business, and agree certain levels of virement between programmes (as anticipated in the Finance Manual with levels set by the Committee from time to time);
4. to consider how the BSB presents financial information to best effect and with appropriate transparency and comprehensiveness. To consider the reliability of forecasting and how the pursuit and achievement of efficiency savings are reported;
5. to review and agree actions on the effectiveness of service level agreements within the organisation;
6. to consider how the BSB undertakes planning activity to best effect and in a timely and consistent manner, as well as to review the robustness of programme and project plans. To support the Board and the executive with the planning and monitoring of the implementation of the Regulatory Standards Framework; and

7. to agree how the BSB monitors, measures and reports performance to best effect, with appropriate transparency and in a timely and consistent manner. To consider the quarterly performance reports prior to submission to the Board.

The membership of the Planning Resources and Performance Committee shall be:

8. Five members, including a Chair who must be a member of the Board and have an overall lay majority.

#### **Annex 4d - Professional Conduct**

The terms of reference of the Professional Conduct Committee are:

1. to carry out the functions and exercise the powers under Part 5 of the BSB Handbook
2. to respond to and, where appropriate, defend appeals against and other challenges to actions and decisions of the Committee and of disciplinary tribunals and panels constituted under the regulations rules referred to at (1) above;
3. to make recommendations to other committees or to the Board about matters of professional conduct, including changes to rules referred to at (1) above when the Committee considers it appropriate to do so;
4. to liaise, where appropriate, with other BSB Committees, the Bar Tribunals and Adjudication Service, the Legal Ombudsman and any other bodies relevant to the work of the Committee in exercising its functions;
5. to undertake such other tasks as the Board may require; and
6. to report to the Board on its work as and when required.

The membership of the Professional Conduct Committee shall be:

7. A chair and 4 vice chairs. There must be 2 lay and 2 barrister vice chairs. The chair can be either a lay or barrister member;
8. A minimum of 10 lay members and a maximum of 24 lay members; and
9. Subject to a minimum of 10, a number of barristers to enable the Committee in the judgment of the Chair to carry out its business expeditiously.

#### **Annex 4e - Qualifications**

The terms of reference of the Qualifications Committee are:

1. to consider and determine:
  - a. applications for exemption from any requirement of the Bar Training Rules (Section 4B of the Handbook); and
  - b. any request for review made under 4B10, 3C6 or 3E11 of the Handbook



2. to consider and determine all applications for authorisation under the following (including dispensations from and waivers):
  - a. waivers from the requirement to work with a “qualified person” (rS20 & rS21);
  - b. authorisation to conduct litigation (rS49)
  - c. waivers from the requirement to undertake Public Access work (rC120)
  - d. waivers or extensions of time in relation to the Continuing Professional Development Regulations (section 4C)
  - e. waivers from the pupillage funding and advertising requirements (rC113);
  - f. authorisation of Approved Training Organisations (rQ39);
  - g. approval for licensed access; and
  - h. any other rule or regulation as may be delegated to it by the Board.
3. to discharge the functions of the Bar Council and the Inns in respect of the recognition of European lawyers conferred upon them pursuant to the European Communities (Recognition of Professional Qualifications) Regulations 2007 and the European Communities (Lawyers’ Practice) Regulations (2000).
4. to exercise the powers of the Board to designate Legal Advice Centres;
5. to supervise and, where necessary, decide questions concerning the issue of practising certificates and the registration of pupil supervisors;
6. to liaise, where appropriate, with other BSB Committees, representative committees of the Bar Council, the Inns’ Council and any other body on any matters of concern or common interest;
7. to undertake such other tasks as the Board may require; and
8. to report to the Board on its work as and when required.

The membership of the Qualifications Committee shall be:

9. A chair and three vice-chairs, of whom two must be lay persons and two must be practising barristers;
10. At least three lay persons; and
11. At least six practising barristers.

## Annex 5

### Competencies, Experience and Attributes

#### Annex 5a Core competencies for all BSB members

All applicants are expected to be able to demonstrate the following competencies:

6. An interest in and commitment to the integrity of the justice system and diversity.
7. Understanding and knowledge of professional regulation;
8. Understanding, analysing and reaching decisions on complex or sensitive issues;
9. Working as part of a team and contributing strongly and robustly to debates to reach a collegiate decision;
10. Commitment to public interest and the “Nolan Principles” of public life.

In addition to the core competencies, members of the **Professional Conduct Committee** and all committees in the case of paragraphs 11 to 13 below, should meet the following criteria:

9. Barristers should have experience of a range of cases appropriate to their seniority and specialism;
10. Where barristers are of more than 7 years’ Call, they should bring to the Committee particular knowledge or experience of any of the following areas – a specialist area of law, professional conduct issues, training, equal opportunities, the administration of Chambers or issues affecting employed barristers;
11. They should undertake that they are able to attend Committee meetings and any necessary induction training, do the necessary preparatory work on case files and provide advice to members of the Bar;
12. If they have been members of the Committee in the past, not less than 3 years have elapsed since they left the Committee;
13. They must not be the subject of criminal charges, directors disqualification orders or be undischarged bankrupts;
14. They must not be the subject of orders or undertakings under the Fitness to Practise Rules or Interim Suspension Rules; and
15. They should not be subject to exclusion from the Committee under its policy governing members who are the subject of current complaints or findings of professional misconduct or inadequate professional service.

## **Annex 5b Competencies for Chairs and Vice-chairs of BSB committees**

In addition to the core competencies above, it is important for candidates for chair and/or vice-chair posts to possess the following:

1. Ability to provide leadership and direction to a team, committee or organisation
2. Experience of chairing meetings, leading robust debate, reaching consensus and taking decisions on complex and sensitive issues.
3. Experience of representing an organisation to external stakeholders at all levels, including public speaking.
4. Experience of policy development.
5. A knowledge of the Bar and its structures and a commitment to the justice system, to encourage an independent, strong, diverse and effective Bar, and to improve the services provided by barristers to consumers.
6. The experience and the level of respect in their own field to carry the confidence of the public, the profession and other stakeholders.