

Cross-departmental programmes

Future Bar Training (FBT) programme

1. The FBT programme is progressing to time and budget and the transition to being executive-led has gone smoothly. Fortnightly oversight meetings are held and formal Programme Board meetings every eight weeks (the first of these took place on 16 September) Both sets of meetings are chaired by the DG.

Role of the Inns

2. Progress on the implementation of the MOU continues and on delivering the remaining work. This includes:
 - finalising the Admissions and Call Declarations;
 - reviewing the ICC's rules for implementing the Schedule 1 to the MOU – the Guidelines on Fit and Proper Person checks; and
 - timetabling the implementation of DBS checks.
3. At its October meeting, the Board will be asked to approve the ICC's internal rules which will be used to implement the MoU Guidelines on determining a person's fitness to become a barrister.

Pupillage – Communicating changes

4. As some key changes took effect in September (the new minimum funding rate and using the Professional Statement to assess the competence of pupils) and other changes are still in a period of transition, we have had a period of focussed communication activity as we enter the new pupillage season. This has included the following:
 - We wrote to all AETOs reminding them of the changes taking effect in September, updating them on the process for authorisation under the new Authorisation Framework and explaining changes to the process for approval and training of pupil supervisors.
 - We added more prominent [guidance](#) on the above areas to a “useful links” box on our website and updated the content of the [Bar Qualification Manual](#).
 - We raised awareness on social media, via the Regulatory Update, in articles for Council and The Barrister magazines, and published a short video on implementing the Professional Statement on the above page and YouTube.
 - Ongoing attendance at pupil supervisor training by the Inns.
 - Informing newly registered pupils of where to locate the Bar Qualification Manual and telling them that they should be using the Professional Statement during pupillage.

Pupillage – Pupil Supervisor training outcomes

5. Workshops were held over the summer with recent pupils, Inns and others with an interest in pupil supervisor training. We are now collating the suggestions and working with the Inns and Circuits in particular to finalise the outcomes and a transitional period for implementation, including refresher training. We are aiming to publish this shortly, with a view to bringing the new set of training outcomes into force by September 2020.

Pupillage – implementation of the Professional Statement

6. All pupilages commencing on or after 1 September 2019 must assess pupils in line with the competences in the Professional Statement. The final round of visits with the pilot group is nearly complete. The response to implementing the Professional Statement remains consistently positive amongst the early adopters. Some guidance was included in the new Bar Qualification

Manual that was published when the new rules went live and we have added to it, based on feedback from these visits.

Pupillage – Implementation of the new minimum funding amount

7. The new rates came into effect from 1 September 2019: £18,436 per annum for pupillages in London and £15,728 per annum for pupillages outside London. No applications for a waiver from the requirement to adopt these rates has been received.

Authorisation Framework (“AF”) and application portal

8. We have now received 5 applications from prospective vocational Authorised Education and Training Organisations, and have authorised one of these, the Inns of Court College of Advocacy, with conditions. We expect to receive applications from the remaining existing BPTC providers in the autumn. There have been several issues in using the online portal to submit and assess vocational AETO applications, some of which have been resolved but some of which are outstanding. The process of setting up the online portal through which application from AETO’s will be assessed has provided very good insight which we will be able to apply as we work with the PMO to implement the IT solutions for the Student Registration, Exams and Pupillage on-line projects.
9. All staff in Authorisations and Supervision have been trained to assess applications for pupillage AETOs. The Team have now authorised the first new applicant as an AETO providing pupillage under the new AF. Transitional arrangements are in place for existing Pupillage Training Organisations and they will be authorised under the new AF between now and April 2021.
10. Assessment of the pilot cohort is still in progress; some useful feedback has been provided which we are reviewing.

Recruitment and Advertising (RecAd)

11. The targeted engagement programme to seek feedback on two proposals has ended. These were to mandate the common Gateway timetable for all pupillage recruitment and a requirement to use written agreements for pupillage. We received a good response: 39 responses from key stakeholders in response to the targeted engagement programme document, 405 responses to the survey on mandating the Gateway timetable and 312 responses to the survey on written agreements. The results will be taken to the Senior Management Team for consideration in early October. We received a strong message that, if we were to mandate the Gateway timetable, we should allow a year for implementation, so we made a public statement on this to keep the profession informed. Final proposals will come to the Board in October.

Curriculum and Assessments Review

12. The remaining work of the Curriculum and Assessment Review project relates to the implementation of new examinations (which is being captured by the Examinations Implementation Project) and the development of new compulsory courses during pupillage. A newly constituted Curriculum and Assessment Review (CAR) group is being formed to focus on the latter, with members of the Centralised Examinations Board (CEB) for Professional Ethics, external representatives with expertise relating to pupillage, and two members from the previous group to ensure continuity. Two workshops will be held in the autumn to develop the learning outcomes for the compulsory courses in Advocacy and Negotiation, which will involve some members of the CAR group as well as some external subject matter experts. The new CAR group will also assist in reviewing the development of the new pupillage Professional Ethics assessment.

Examinations Implementation

13. The team is currently developing the pilot/mock paper for the new Civil Litigation assessment, and new rolling case scenario questions have been commissioned.
14. Following a series of consultative discussions with current BPTC providers, a number of members of the profession who are interested and have expertise in pupillage and pupillage training, the CEB and the new CAR group, we are likely to be in a position to confirm a decision on the format of the Professional Ethics assessment during pupillage by the end of the month. We will be publishing an account of our decision-making process and rationale.

Student Registration Project

15. The business analysis phase of this project which aims to bring students into using MyBar and will enable the provision of a regulatory transcript of student achievement, has started.

Programme Evidence and Evaluation

16. AlphaPlus have started the evidence gathering for the early stages of the evaluation, conducting interviews with a selection of AETOs and starting the development of a large-scale survey of trainees and AETOs to launch in October. Work is progressing to the project timescales with no issues identified so far. Initial evidence from the early interview programme should be available for review in the near future.

Regulatory Operations Programme (Modernising Regulatory Decision-Making)

17. A specific update appears on the main public agenda of the Board this month.

CMA Programme

18. The next meeting of the CMA Programme Board has been scheduled for the 25th of September. With major programme milestones now having been successfully delivered, a discussion will be had on how progress with the programme evaluation component will be monitored as the rest of the Programme gets closed off. Monitoring compliance with the new rules, which came into force in July, now falls into business as usual activity.

Equality and Access to Justice Programme

19. The E & AJ Programme Board convened on the 11th of September and noted that progress towards the delivery of the E & D agenda was steadily being delivered.
20. Two new Projects to do with carrying out an EIA of the Equality Rules and to assess the extent to which training providers' Equality and Diversity Policies are impacting on student experience were formally agreed by the Programme Board for inclusion into the E & D programme of work. The Programme Board also agreed to close the Data Monitoring (Sexual Orientation and Religion or Belief) project due to it having been successfully delivered. The new rules for reporting sexual orientation and religion and belief have been launched and have received positive media attention.
21. The Anti-Harassment project has been formalised, work has commenced to survey the Bar about the duty to report.
22. Following the Boards' decision, we have revised the timescales for the Equality Impact Assessment of the Equality Rules to be aligned with the Handbook review.
23. The E&AJ team has established a relationship with the Black Barrister's Network and they have agreed to attend the BSB Race Equality Task Force on 25 September to consider the potential for partnership working.

IGR Programme

24. The LSB has since published its decision on revised Internal Governance Rules (IGRs) and the Executive is now working on implementation. The first full Programme Board meeting is likely to take place in early October following which the individual projects will commence planning and delivery against their project workstreams.

BSB Departments

Strategy & Policy

25. We will be issuing a short and targeted rule change consultation in October to seek views on restricting barristers from supervising unregulated immigration advisors who have been subject to certain sanctions, either by the Office Immigration Services Commissioner, an approved regulator or a designated body.
26. We are reviewing our qualified person and three-year rule requirements to achieve a proportionate balance between access to justice, competition in the provision of services and protecting and promoting the interests of consumers. We are also reviewing our rule which prevents a barrister from holding a practising certificate as a barrister and with another approved regulator, such as the Solicitors Regulation Authority. We will be engaging with the profession and other stakeholders on a rule change in due course.

Regulatory Risk

27. Following SMT agreement of a new risk index, the Regulatory Risk Manager and the Research Team developed a supporting risk register and, from that, a new consolidated risk report. The GRA Committee discussed this at length at their September meeting, after which they were content to approve the work undertaken by the Executive. The Risk Index and consolidated risk report will be presented to the Board in September.
28. In support of the introduction of a single Risk Assessment for the BSB, the Regulatory Risk Manager has:
 - Undertaken risk assessment training for staff in the new CAT Team, as well as those in PCD and RAD.
 - Developed proposals for publicising how the BSB assesses risk. The Reg Ops Programme Board have approved an approach and the Regulatory Risk Manager will now work with Comms Team colleagues to develop this ahead of publication in October.

BSB Handbook

29. The Call for Evidence (available on the BSB website) for the review of the Handbook is still open (until 28 October) and we are continuing to meet stakeholders one-to-one. In addition, we are planning a broader stakeholder roundtable event on 16 October, including two QC speakers. The July meeting of the Board agreed proposals concerning the scope of the review, including which other projects should be absorbed into the review and which should proceed in parallel. The DG and other members of the executive led a session on the review at the International Conference of Legal Regulators in Edinburgh on 6 September.
30. Version 4.2 of the BSB Handbook was published on 2 September. This removed the restriction on the reporting of diversity data relating to sexual orientation and religion or belief unless all members of the workforce provide consent. The new version also clarified that employed barristers providing services through a non-authorized body (e.g. an agency or corporate vehicle) do not need to obtain waivers from the Scope of Practice Rules.

Professional Indemnity Insurance (PII) and BMIF

31. We had previously submitted a rule change application to the LSB which, if approved, would oblige single-person authorised bodies to obtain their primary level of PII cover from BMIF. Following LSB requests for it to contain more information, we have withdrawn the application with a view to resubmitting it in due course.

Research

32. AlphaPlus have started the first stages of the Future Bar Training evaluation, conducting initial interviews with a sample of training organisations (both work based and vocational) to investigate their early experiences preparing for and implementing the changes introduced as part of FBT. The evaluation programme will run for at least four years to enable the implementation of the reforms to be evaluated (process evaluation) as well as the extent to which the reforms have succeeded in meeting their objectives (impact evaluation).
33. Work continues on the evaluation of the Continuing Professional Development reforms, with the researchers having completed a draft report which is currently under review. The researchers undertook a literature review of theories and practice around CPD, held several focus groups and 40 interviews with barristers, held an internal workshop at the BSB to discuss emerging findings, and completed an online survey which received 566 responses.
34. Research into BSB complaints data is being conducted by the Research Team. This will analyse three years of data to investigate factors contributing to differences across gender and ethnicity in the numbers of complaints made, and the outcomes of complaints, and is a follow-up to a similar piece of research published in 2016.
35. Analysis is being undertaken to look at the impact of the change to the cut score/pass mark for the BCAT in 2018. This will help to inform future evaluation work on the BCAT changes. We have also worked on a further analysis of differential attainment on the BPTC following the changes to the centralised examinations.

Professional Conduct Department

Regulatory Operations Programme

36. The PCD is currently in the final implementation phase of the Regulatory Operations Programme changes, which are due to come into effect on 15 October.
37. We continue to contribute to the development of the new BSB website and have been working with Law for Life to ensure that our content is as user-friendly and accessible as possible.

Publication of Findings policy

38. On 18 July the Professional Conduct Department presented a proposal to the Board which would amend the publication lengths for disciplinary findings. The change means that suspensions under 12 months will now be published for five years from the end of the sanction, and suspensions over 12 months for 10 years. Disbarments will no longer be published after 60 years. The amended policy is due to take effect on 16 September, on which date relevant findings will be removed and the revised policy published.

Remuneration for prosecutors

39. We are currently advertising for applications from chambers or other organisations to join our Tribunal Representation list, to provide us with representation at Tribunals and other hearings. The advertising period will run from 16 September to 11 October 2019, with shortlisting scheduled for the period 14 - 26 October. It is intended that interviews will be held on 12 and 13 November, with decisions and announcements about appointments taking place in late November 2019. This will allow for training to take place prior to implementation of the new arrangements in January 2020.

40. For more details including the advertisement, application criteria and fees schedule, please visit our website.

Training

41. The arrangements for the Regulatory Operations Programme include a comprehensive training programme for staff, which commenced on 4 September. This includes sessions designed to equip staff to understand and apply the new Enforcement Decision-Making Regulations and the revised supporting policies and procedures. There will also be technical training sessions on the functionality of the new case management system and the bundling software which will be used to support IDB and Tribunal work.

Litigation

42. In relation to the two discrimination claims from the same barrister which we reported on last month, the Employment Tribunal matter has now been listed for a strike out hearing in February 2020. There are a number of applications in the High Court matter and these are to be heard in the week commencing 14 October 2019.
43. The BSB has recently settled the County Court discrimination claim, without any acceptance of liability, relating to the BSB's unsuccessful historic prosecution of professional misconduct charges against the Claimant and the subsequent protracted costs litigation. An order for a permanent stay of the claim has been sought by consent, in order to bring this matter to a close.
44. Finally, the BSB also continues to defend a civil claim in which it is one of eight defendants. That case alleges that the BSB committed fraud by false representation and breached the Claimant's Article 6 rights in not investigating their complaint against a barrister. An application to strike out this claim has been made by the BSB and other defendants.

Regulatory Assurance Department

Anti-Money Laundering and Counter Terrorist Financing

45. The Department for Business, Energy & Industrial Strategy published a [consultation on corporate transparency and register reform](#). The consultation proposes to enhance the role of Companies House by checking the information submitted by people registering, running and owning companies, as well as greater protection of personal information on the companies register. The consultation also outlines reforms that will improve co-operation and data sharing between Companies House and UK Law Enforcement Agencies. Our response to this consultation can be found [here](#).
46. In accordance with our obligation under [regulation 17 of the Money Laundering Regulations](#), we have begun supervisory engagement with barristers and BSB entities who declared they are [Trust or Company Service Providers \(TCSPs\)](#) (there are currently eight of them). TCSPs are classed as high risk for money laundering by the UK Government as set out in their [National Risk Assessment](#). Our TCSP population have been issued with a questionnaire asking them to provide information about the type of work that they do, how they manage risk and the controls they have in place to ensure compliance with the Money Laundering Regulations. The information that they provide will be used to inform our assessment of risk in this area and to determine whether supervision visits are required.

Youth Court Declaration Spot Check

47. We are in the process of spot checking 120 barristers who declared at Authorisation to Practise that they did work in the Youth Court and that they were competent to do so under the BSB's Youth Proceedings competences and guidance. The aim of the spot check is to assess the extent to which barristers have used the Youth Proceedings competences and guidance to reflect on their practice in the Youth Court in 2019/20.

48. The deadline for submitting responses is 20 September. At the time of writing, we had received responses from 25% of those we asked. The Supervision Team have begun to consider the responses and will then provide individuals with feedback and produce a report.

Training Supervision and Examinations

49. Since the last report the summer assessments have taken place; the Litigation exams have been marked and the subject boards held. The Professional Ethics exam has been first marked and standard setting completed; second marking and preparation for the Ethics subject board and Final Board is now underway, as is preparation for the spring assessments.
50. The [Chair's report for the spring 2019 assessments](#) was published in mid-August.
51. We have welcomed three new Assistant Examiners to the Centralised Examinations Board: Nick Cribb of the CPS has joined the Criminal Litigation team, Rachel Spearing of Serjeants' Inn and Julie Whitby of 15 New Bridge Street have joined the Professional Ethics team.
52. The stakeholder engagement regarding the format of the Professional Ethics assessment taken during pupillage/work-based learning has concluded. In early October we will publish a paper covering setting out our conclusions and giving the background and rationale.
53. Work on the Civil Litigation strand of the Exams Implementation Project has started; we are developing the pilot/mock paper and have commissioned the new rolling case scenario questions. Work on the Professional Ethics strand has also started; we are in the process of developing the online system for registering for an assessment.
54. The annual BPTC Provider Conference was held in Birmingham on 12 July. Delegates in attendance included BSB staff, BSB external examiners, and representatives from BPTC providers, ICCA and the Inns, including representatives from King's Inn (Ireland). Topics covered in sessions on the day included adding Legal Research back in to the curriculum of the vocational component of training for the Bar, how to write new rolling case scenario-style questions for Civil Litigation, supporting students with disabilities, and sexual harassment at the Bar. The team received very good feedback from delegates on both the venue and the content and delivery of the sessions.

Authorisations

55. Since the last report the Authorisations Review Panel (ARP) met on 14 August and considered one application for review.
56. The original decision was amended. One request for review has been received for the next meeting scheduled for 25 September 2019.
57. The Pilot AETO application process is underway and the team has authorised one new organisation. Training for the business as usual applications has been completed and the end to end process is ready to commence.
58. Development of the pupillage registration on line platform is in the planning stage and a concept paper has been drafted for the programme board.

Assuring the competence of barristers

59. We are working closely with the Professional Standards team to complete a stakeholder engagement mapping exercise for this project. We are also finalising our implementation plan for this work over the coming months.
60. In the meantime, we are continuing to engage with stakeholders. We have recently met with the Crown Prosecution Service (CPS) to continue our work to develop a Memorandum of

Understanding to enable us to effectively share information relating to the competence of barristers at an individual and thematic level. Over the next month, we will continue our stakeholder engagement; focussing on the judiciary and attending an event by the Legal Consumer Panel on the 18 October.

Communications and Stakeholder Engagement

61. Since this report was last prepared for the July Board, the following press releases and news announcements have been issued:

- 17 July: the appointment of new members to the Advisory Pool of Experts (APEX);
- 19 July: updating the policy on the publication of disciplinary findings against barristers;
- 26 July: the suspension of a barrister for three months for failing to comply with a determination of the Legal Ombudsman;
- 30 July: the publication of the Annual Report for 2018-19;
- 2 September: the appointment of members of the Independent Decision-making Body (IDB);
- 2 September: the introduction of new rules to remove restrictions on reporting barristers' sexual orientation, religion and belief data; and
- 5 September: possible changes to pupillage recruitment and advertising.

Work in Progress

62. In addition to business-as-usual activities, at the time of writing, the following pro-active communications are scheduled over the next few weeks and months:

- the publication of the BSB's evaluation into the new Continuing Professional Development (CPD) scheme;
- the launch of the new Regulatory Operations programme in October including the introduction of the Independent Decision-making Body and the Contact and Assessment Team; and
- the launch of the new BSB website.

63. The team is also working on the following projects:

- the development of the new BSB website. This project has reached a key milestone with the focus now switching from agreeing content with other BSB teams and moving onto the uploading of the content onto the new site, and conducting testing.
- preparing for a range of stakeholder engagement activities during the autumn including a Handbook review roundtable event in October and the BSB's attendance at a number of pupillage fairs; and
- continuing to publicise the introductions earlier this year of both the new Bar Qualification Rules and the new Bar transparency rules.

Online and social media

64. During July, 31,669 users visited the BSB website with a further 27,438 visiting during August. At the time of writing, we have 22,151 followers on Twitter, 4,166 followers on LinkedIn and 671 followers on Facebook.

Governance and Corporate Services

65. We have appointed Velia Soames as the Independent Reviewer, reporting to the Governance, Risk and Audit Committee of the Board. Ms Soames is a solicitor with substantial experience in regulation and complaints handling.

66. Recruitment for the next Director General of the BSB should have concluded by the end of September, with interviews of shortlisted candidates being held two days prior to the Board meeting. Once a preferred candidate has been identified, we will complete our due diligence before making a public announcement.
67. The Legal Services Board published new Internal Governance Rules on 24 July, with a transition period of one year to come into compliance. These rules set out the arrangements that must be in place between the Bar Council and the BSB to ensure our regulatory independence. We are scoping the programme of work to make the necessary governance and procedural changes to achieve compliance.
68. To complete the governance changes necessary for the establishment of the Independent Decision-Making Body (IDB) in October, we are seeking the Board's approval of a revised Scheme of Delegations. We intend that those powers that will be vested in the new Commissioner role be appropriately sub-delegated to other members of the Executive. As always, the Board is mindful of its published governance principle that decisions should be delegated to the lowest appropriate level whilst maintaining quality and managing risk.
69. We are negotiating with an intent to renew our contract with the Council of the Inns of Court, for its provision of services in relation to the Bar Tribunals and Adjudication Service. This would be for the period from January 2020 to end December 2023.

Resources Group

70. A major focus of work across the whole Group in the last two months has been the project to refurbish the (reduced) space we will occupy in the building from October. A short delay on the project has been encountered but this has not had any significant operational impact. The HR team has given important support to the Regulatory Operations Programme and the Finance team to the preparation of the BSB budget for 2019/20.

Vanessa Davies
Director General
September 2019