

Note: the timings quoted are indicative only and the meeting may extend beyond the anticipated finish.



REGULATING BARRISTERS

Meeting of the Bar Standards Board

Thursday 18 March 2021, 5.00 pm
via MS Teams

Agenda - Part 1 – Public

				Page
1.	Welcome / announcements (5.00 pm)		Chair	
2.	Apologies		Chair	
3.	Members' interests and hospitality		Chair	
4.	Approval of Part 1 (public) minutes			
	• 28 January 2021	Annex A	Chair	3-5
5.	a) Matters arising & action list	Annex B	Chair	7
	b) Forward agenda	Annex C	Chair	9
6.	BSB Business Plan & budget 2021/22 (5.05 pm)	BSB 011 (21)	Steve Haines / Mark Neale	11-30
7.	How can the BSB improve its engagement with consumers? (5.15 pm)	BSB 012 (21)	Wilf White	31-36
8.	Director General's Strategic Update- Public Session (5.30 pm)	BSB 013 (21)	Mark Neale	37-39
9.	Chair's Report on Visits and External Meetings (*)	BSB 014 (21)	Chair	41
10.	Any other business (5.40 pm)		Chair	
11.	Date of next meeting Thursday 27 May 2021			
12.	Private Session			

John Picken
Governance Officer
11 March 2021

**Note – Starred items will not normally be discussed unless a Member gives prior notice that this should occur. If you wish to raise any points on these items, please contact [John Picken](#) before the meeting.*

BAR STANDARDS BOARD

REGULATING BARRISTERS

Part 1 - Public
Minutes of the Bar Standards Board meeting
Thursday 28 January 2021 (5.00 pm)
via MS Teams

- Present:** Baroness Tessa Blackstone (Chair)
 Alison Alden OBE
 Lara Fielden
 Steve Haines
 Leslie Thomas QC
 Andrew Mitchell QC
 Elizabeth Prochaska
 Irena Sabic
 Nicola Sawford
 Adam Solomon QC
 Kathryn Stone OBE
 Stephen Thornton CBE
- By invitation:** Derek Sweeting QC (Chair, Bar Council)
 Lorinda Long (Treasurer, Bar Council)
 Malcolm Cree CBE (Chief Executive, Bar Council)
- BSB & RG Executive in attendance:** Rebecca Forbes (Head of Governance & Corporate Services)
 Teresa Haskins (Head of People, BSB)
 Oliver Jackling (Research and Evaluation Manager)
 Sara Jagger (Director of Legal and Enforcement)
 Andrew Lamberti (Communications Manager)
 Ewen Macleod (Director of Strategy and Policy)
 Mark Neale CB (Director General)
 John Picken (Governance Officer)
 Amit Papat (Head of Equality and Access to Justice)
 Wilf White (Director of Communications and Public Engagement)
- Press:** Neil Rose, Legal Futures
 Jemma Slingo, Law Society Gazette

Item 1 – Welcome / Announcements

1. The Chair welcomed those present to the meeting.

2. **Item 2 – Apologies**

- Oliver Hanmer (Director of Regulatory Operations)

Item 3 – Members’ interests and hospitality

3. None.

Item 4 – Approval of Part 1 (public) minutes (Annex A)

4. The Board approved the Part 1 (public) minutes of the meeting held on Thursday 26 November 2020.

Item 5a – Matters arising5. a) **Proposed Amendments to the BSB Standing Orders**

BSB 001 (21)

- (i) Rebecca Forbes advised on proposed amendments to the Standing Orders. This followed representations from the Bar Council under the LSB approved protocol arrangements and concerned its wish:
- for barrister members of BSB Committees to be “practising” and therefore up to date with current standards;
 - that at least two barristers be included on BSB Committees (the current Standing Orders require just one, whereas the previous edition required one third of Committee members to be barristers).
- (ii) Barristers on BSB Committees are usually drawn from the Board and to be a Member of that body, they are required under the Constitution to be practising barristers. To avoid any doubt, however, it would be consistent to reinstate this requirement for barrister membership of Committees.
- (iii) there are now only two BSB Committees, both of which have a small membership. It would be useful to adopt a convention of appointing two barristers to these bodies so as to mitigate the risks around lack of representation if one member is unavoidably absent from a meeting, but we have not proposed reinstating this requirement within Standing Orders.
- (iv) **AGREED**
to approve the proposed amendments to Standing Orders as set out on the paper based on the above rationale.

**RF to
note**b) **Action List**The Board **noted** the action list.**Item 5b – Forward Agenda (Annex B)**6. Members **noted** the forward agenda list.**Item 6 – Annual Diversity at the Bar Report**

BSB 002 (21)

7. Amit Popat summarised the salient points of the report ie:
- disclosure rates are gradually increasing though, in some categories, they remain too low to be statistically reliable;
 - pupillages have fallen from 472 to 354;
 - there is underrepresentation of:
 - women (except in pupillage);
 - minority ethnic groups at QC level;
 - those with caring responsibilities;
 - there remains an overrepresentation of those who have a fee paying school background.
8. Derek Sweeting QC raised a question about the decline in pupillage. In response, the following points were made:
- the Supervision Department has closely monitored this issue. Some pupillages may yet be offered and a proportion have simply been deferred in view of the current health emergency;
 - it is too early to say whether the trend will continue, though some providers have indicated they may not recruit in the same numbers next year. We will therefore continue to monitor the situation.
9. **AGREED**
to note the report.

Item 7 – Anonymisation of case papers represented to Independent Decision Making Panels (IDPs)

BSB 003 (21)

10. Sara Jagger commented on the recommendation to cease anonymisation of case papers for gender. This is because:
- it has proven to be ineffective and involves considerable staff time which can lead to delay;
 - it has not proven to have had any impact in managing the risks previously identified in equality and diversity reports.
11. She confirmed that the BSB will continue to anonymise papers by name as a means of mitigating risks around unconscious bias and perceived ethnicity. She also highlighted the need for sufficient resource to enable training in anti-discrimination.
12. **AGREED**
- a) to cease with immediate effect the practice of anonymising gender in case files for presentation to IDPs.
 - b) that a further report on the anonymisation by name of IDP files be presented to the Board only if there is evidence to suggest this should also cease.
 - c) that sufficient resources are available in the 2021/22 budget, and in future years, to ensure high quality training for all decision makers in anti-discriminatory practice and unconscious bias.

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Item 8 – Director General’s Strategic Update – Public Session

BSB 004 (21)

13. The Board **noted** the report.

Item 9 – Chair’s report on visits and external meetings

BSB 005 (21)

14. The Board **noted** the report.

Item 10 – Any Other Business

15. None.

Item 11 – Date of next meeting

16. Thursday 18 March 2021.

Item 12 – Private Session

17. The Board resolved to consider the following items in private session:
- (1) Approval of Part 2 (private) minutes – 26 November 2020.
 - (2) Matters arising and action points – Part 2.
 - (3) The regulations of professional standards at the Bar.
 - (4) LSB strategy consultation.
 - (5) The role of Board members in the BSB’s communication and public engagement strategy.
 - (6) Race at Bar Standards Board: Survey Report and Action Plan.
 - (7) Director General’s Strategic Update (private session).
 - (8) Any other private business.
18. The meeting finished at 5.15 pm.

**BSB – List of Part 1 Actions
18 March 2021**

(This includes a summary of all actions from the previous meetings)

Min ref	Action required	Person(s) responsible	Date of action required	Progress report	
				Date	Summary of update
26c (26/11/20) – PRP mid-year report	review the fitness for purpose of existing performance KPIs	Mark Neale	before 11 March 2021	10/03/21	Completed - The <i>Strategic Update</i> includes a new style report for the Board on performance in the third quarter. We shall be developing this report for future quarters, including incorporating into the accompanying dashboard more information about the stocks and flows of core regulatory work.
				19/01/21	As part of our work on the next three year strategy, we are also reviewing our processes for handling core regulatory work and the associated KPIs. The evaluation of the changes made to regulatory decision-making will feed into this.
33b (26/11/20) – BSB Anti-Racist Statement	investigate proposed additional actions in respect of the Race Statement ie <ul style="list-style-type: none"> • potential for a kitemark • staff survey response to SPR Committee • Board Members to access barrister training on E&D 	Amit Popat	before 11 March 2021 before end April 2021	10/03/21	Ongoing – Meetings are planned with the BC race equality working group to explore how our work on race equality can complement each other, including the potential for kitemarks and access to training. The race equality staff survey is complete with an action plan in place, this will be present to SPR accordingly.
				20/01/21	Ongoing - Anti-Discrimination training for Board members is planned for April 2021. Plans to deliver an anti-racist seminar for the Board in June/July are being considered. Discussions about kite-marks continue with the BSB's Race Equality Task Force.
38a&b (26/11/20) – consumer engagement	develop the idea of a BSB Consumer Panel including membership and Terms of Reference	Wilf White / Kathryn Stone	by 21 January 2021 before 11 March 2021	09/03/21	Completed – Paper with March Board agenda
				19/01/21	Ongoing – Useful meetings held with SRA and LSCP, the second of which was also attended by Kathryn Stone. A paper will be submitted for the Board's consideration in March.

Forward Agenda

Friday 30 April 2021 (special meeting)

- Outcome of the independent report on the August examinations

Thursday 27 May 2021

- End of year financial report (2020-21) & SP&R Committee Annual Report
- Corporate Risk Report (summary)
- Regulatory Return
- Director General's Strategic Update (incl Q4 / year end performance report)

Thursday 15 July 2021 (Board Away Day)

- Board development
- Strategic Plan 2023-2025 & emerging Risk Outlook themes

Thursday 23 September 2021

- Budget 2022-23
- Consolidated Risk Report
- IDB Annual Report
- Regulatory Decision Annual Report 2020/21
- Director General's Strategic Update (incl Q1 performance report)

Tuesday 19 October 2021 (Board to Board meeting with LSB)

Thursday 25 November 2021

- Mid-year financial report (2021-22)
- GRA Annual Report
- Corporate Risk Report (summary)
- Director General's Strategic Update (incl Q2 performance report)

Thursday 27 January 2022

- Director General's Strategic Update

Thursday 31 March 2022

- BSB Business Plan & Budget 2022/23
- Strategic Plan 2023-2025 & Risk Outlook 2022
- Consolidated Risk Report
- Director General's Strategic Update (incl Q3 performance report)

Meeting:	Bar Standards Board	Date:	Thursday 18 March 2021
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Title:	BSB Business Plan and Budget 2021/22
Author:	Mark Neale
Post:	Director General

Paper for:	Decision: <input checked="" type="checkbox"/>	Discussion: <input checked="" type="checkbox"/>	Noting: <input type="checkbox"/>	Other: <input type="checkbox"/> (enter text)
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Paper relates to the Regulatory Objective (s) highlighted in bold below	
1.	protecting and promoting the public interest
2.	supporting the constitutional principle of the rule of law
3.	improving access to justice
4.	protecting and promoting the interests of consumers
5.	promoting competition in the provision of services
6.	encouraging an independent, strong, diverse and effective legal profession
7.	increasing public understanding of citizens' legal rights and duties
8.	promoting and maintaining adherence to the professional principles
<input type="checkbox"/>	Paper does not principally relate to Regulatory Objectives

Recommendation

1.	The Board is asked to <ul style="list-style-type: none"> • Approve the business plan for publication • Approve the budget for 2021/22
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Executive Summary

2.	We have considered the programme and project activity to be included in our Business Plan for the coming year. We consider that the delivery of our core regulatory functions must take priority, including ensuring that we have sufficient resource to meet our key performance indicators (KPIs). We intend to focus resources on fewer projects, only deploying resource to those interventions that are a high priority and will make a substantial impact in mitigating risks to the regulatory objectives (and only where we have the capacity to do so).
3.	The Business Plan and budget were scrutinised by the Strategic Planning and Resources Committee (SPR) at its recent meeting; the Committee recommends them to the Board. The Board is asked to approve the Business Plan at Annex 1 and the budget at Annex 2.
4.	The BSB Business Plan, attached at Annex 1, breaks down the proposed activities against each of the three strategic aims and includes both core regulatory activity and projects and programmes. The Business Plan will be published following the Board's approval.

5. The BSB budget, latest version attached at Annex 2, sets out the planned income and expenditure in the next business year. The total income in the 2021/22 budget is £9,720k and the total expenditure in the budget is £11,729k (that figure does not include depreciation). The projected deficit of just over £2 million will be financed from reserves.
6. Since the version of the budget presented to the Board on 24 September 2020, we have refined the budget to ensure provision remains appropriate and adequate and correlates to the activities in the business plan. In sum, we now expect our directly controlled income to be £290k higher than foreshadowed last September and expenditure to be £213k higher (£158k of that due to increases in the staff expenditure budget).
7. The additions to permanent headcount approved by the SPR are intended to give us the minimum level of capacity and resilience necessary to deliver our core regulatory functions (and hopefully to achieve service standards).

Risk

8. The budget bid is changed from that approved by the Board in September, with expected income increased to reflect recent trends of collection and expenditure revised following discussions with budget holders on non-staff costs and agreement from SPR to an increase in permanent headcount. The overall year-end position is largely unchanged, with increases in income more than matching our planned increases in recurrent expenditure. There is always a risk that we will not collect the income we expect, and will need to find alternatives to meet our planned expenditure or then look for ways to reduce expenditure. The risks of not increasing headcount are arguably more immediate and tangible, given the effects of workload and the health emergency on our existing staff.

Resources (Finance, IT, HR)

9. The budget sets the resources required by the BSB for 2021/22. Activities have been prioritised to ensure that the plan can be delivered within the budget. However, delivery remains contingent upon staff capacity and that is in the context of a commitment by senior management to prioritise well-being and to ensure that individuals and teams do not continue to have to work excessive hours.

Equality & Diversity

10. Whilst there has been no Equality Impact Assessment (EIA) of the business plan or budget itself, EIAs will have been carried out on the activities that contribute to the business plan and budget.

Business Plan and Budget – 2021 / 22 financial year

Status

1. For approval.

Recommendations

2. The Board is invited to:
 - a. **Approve** the business plan for publication before April and **approve** the budget for 2021-22.
 - b. **Note** that one implication of the Business Plan is that the timetable for some work under our control, particularly the review of the Code of Conduct, will be extended in order to manage workloads.

Executive Summary

3. This has been an extraordinarily difficult year in which to construct a Business Plan which strikes a realistic balance between ambition and capability. Despite our efforts to prioritise, it is apparent that the health emergency and associated work demands have placed heavy pressure on some teams and individuals. We are concerned about the impacts on individual well-being. Our lean resourcing model has proved brittle in the face of both increased demands of staff and reductions in their capacity. The Senior Management Team is committed to ensuring staff well-being as a priority and to implementing the necessary measures to protect well-being now and into the future.
4. Discussions between the SMT and Heads of teams have led us to guiding principles which we have applied to the planning process. Firstly, that we must prioritise and ideally agree on a small number of projects that we can do well, rather than a larger number that we do not have capacity to complete to an acceptable standard. We want to give appropriate priority to our core regulatory work and to meeting the service level standards (KPIs) for handling our day-to-day work. Alongside our core work, we aim to focus on a small number of high impact programmes of work which reflect our analysis of risk to the regulatory objectives. These include our work on standards at the Bar and on diversity.
5. Secondly, we need to build in more resilience so we are able to deal with staff absences or new demands of us and still deliver our core regulatory functions. To that end, the Strategic Planning and Resources Committee (SPR) has approved additions to our permanent headcount where it is most needed (subject to affordability).
6. Thirdly, staff well-being is and will remain an absolute priority for the SMT. We will take the decisions necessary to achieve sustainable workloads and allow our people to take much needed holidays, even where that means delay or deferral of project work. We must, in the coming year, have flexibility on timeframes and milestones so we do not ask too much of our people.

Business Plan

7. This Business Plan is for the third and final year of our current Strategic Plan. For reference, the three strategic aims for this period are:
 - Delivering risk-based, effective and targeted regulation
 - Encouraging an independent, strong, diverse and effective legal profession
 - Advancing access to justice in a changing market

8. Since September, the SMT has twice reviewed the published Business Plan commitments for the remainder of this year and the planned commitments for the next year. These reviews (in December 2020 and January 2021) were informed by scoping of resource requirements both for our core regulatory activity (“business as usual”) and programme and project activities. The SMT has also met with Heads of teams to consider the resource demands of planned activity in the coming year.
9. We are cognisant of the heavy workloads borne across the BSB in the last year, our struggle to meet KPIs for our core regulatory activity, and reductions in capacity arising from the health emergency (including but not only due to staff illness, colleagues managing caring and home schooling responsibilities, and the mental health and wellbeing impacts of the continuing lockdowns and remote working).
10. We have considered the demands of our core regulatory work - these demands should be relatively steady across the year, although the Supervision Team will have a peak of activity in quarter 1 and early quarter 2 as it undertakes the analysis of the Regulatory Return. We are also cognisant of the numbers of our people with accumulated annual leave and predict that a substantial proportion of colleagues will take leave over the summer. We are keen that they should do so. Our internal planning will reflect expected reductions in capacity in quarter 2 (and to a lesser extent, in quarter 1).
11. We consider that the published Business Plan for the next year should include only the projects which we are assured we can deliver. That will include publication of our usual reports for accountability purposes, together with commissioned research. We do not intend to publish quarterly milestones, so that we can be flexible in resourcing throughout the year. SMT will review and monitor progress against a more detailed version of the Business Plan created for internal purposes (rather than monitoring performance against published quarterly milestones as it does currently).
12. The discussions between SMT and Heads of teams have starkly illuminated the workload pressures on many teams and individuals over the last year. Many colleagues find their capacity already stretched by business as usual and cannot easily commit to additional demands for programme and project work. Against that background, we have reassessed our plans for 2021/22 to prioritise those initiatives which demand immediate action because they mitigate significant risks to the regulatory objectives – the burning platforms – and to adjust timescales for those initiatives where the timetable is set by us rather than by external expectations or requirements.
13. The Code review is a good example of an initiative where we can be more flexible on timing. The review is led by the Strategy and Policy Directorate but requires input from the Regulatory Operations and Legal & Enforcement Directorates. Whilst those other departments must rightly focus on operational priorities, they can only divert staff to this activity when there is capacity. Although the Board had previously asked that this activity be expedited, we now propose that it progress as and when capacity permits, rather than creating overly heavy workloads and diverting staff from core regulatory work by strict adherence to timetables of our own creation.
14. The Business Plan will be published immediately following the Board’s approval.

Budget

15. This paper sets out at a high level the changes made to the budget since the version that was approved by PRP (as it was then) and the Board in September. Every change to income and expenditure, however minor, has been considered by SPR and we have not repeated that detail here.
16. The total income in the 2021/22 budget is £9,720k, an increase of £376k since the version presented in September. This is made up of regulatory income of £1,778k, projected PCF income of £7,836k and our share of the income generated by shared services (Resources Group) of £106k. The total expenditure in the budget is £11,729k, made up of operating expenditure including salary related costs of £10,799k and total non-operating expenditure of £930k. This figure excludes depreciation. For comparison, the total expenditure in the budget for the current year was £11,885k.
17. For direct comparability, the total expenditure cited in the September 2020 paper to the Board was £12,332k but that figure included depreciation of £976k. If we had excluded depreciation in September, the total expenditure was then £11,356k – ie there has been an actual increase in expenditure of £373k (just over 3%) from that presented to the Board in September. Our overall year end position at the end of the 2021-22 financial year is a forecast loss of £2,009k (compared with the forecast loss of £2,012k we reported to the Board in September).
18. There have been corrections to the current year budget figures since the version presented to the Board in September (primarily that some staff in Resources Group were incorrectly coded to the BSB, thereby inflating the current year salary budget and artificially reducing the increase in expenditure).
19. The Bar Council collects the majority of funds through the Practising Certificate Fee (PCF). The PCF can only be spent on the activities that are permitted under the Legal Services Act¹. A significant proportion of the PCF is spent by the BSB (in 2021/22, 58% is allocated to the BSB). The Bar Council also delivers some “permitted purposes” activities so a portion of the PCF is spent by the Bar Council on activities governed and managed separately from the BSB.
20. The rest of our income comes from charges for services we provide. These directly controlled income streams include the fees from Bar Training (formerly known as Bar Professional Training Course fees), Authorised Education and Training Providers (AETOs), the Bar Transfer Test (BTT) and fees levied for authorisations and waivers (including fees for Entity and ABS Regulation). We have increased the forecast Bar Training income from £950k to £1,350k, following collection of nearly £1,600k in this year. The total adjustment to the budgeted income that we directly control is an increase of £290k giving a total of £1,778k. This reflects the increases in Bar Training fees which are partly offset by decreases in income from recovered representation costs and the Bar Transfer Test.

¹ <http://www.legislation.gov.uk/ukpga/2007/29/section/51>

21. We have adjusted upwards planned expenditure in our direct control by £213k (from the version presented in September) which comprises an increase of £55k in our directly controlled non-staff expenditure and £158k on our staff expenditure. The relatively minor but necessary changes to non-staff expenditure have been detailed to SPR in full. We expect one further addition to our expenditure, that the Finance team intend to transfer the costs of printing for Examinations from the Resources Group budget to the BSB budget (approx. £60k). This will create an apparent increase in the BSB expenditure budget but will be cost neutral for the overall entity.
22. When the Board approved Terms of Reference for SPR last November, it gave that Committee authority to approve additional members of staff. At its meetings in February and March, the Committee considered detailed proposals from the executive and agreed to the following three new posts: IDB Manager, HR Adviser, and an additional case officer in the Legal and Enforcement Directorate. In addition, the Committee agreed to retention of the second Legal Support Officer when the current Legal Support Assistant returns from maternity leave and to converting one of the current fixed term posts in the Examinations Team to a permanent post (as part of a restructure of the Examinations Team).
23. The Committee provisionally approved these additions to permanent headcount on the basis that minimum affordability requirements are met. To give certainty to the executive and enable appointments to be made as quickly as possible, the Committee agreed that collection of our worst case scenario in PCF income (£11,948k) will be sufficient to confirm that the affordability test has been met.

Annexes

Annex 1 – BSB Business Plan 2021/22

Lead Responsibility

Mark Neale	-	Director General
Rebecca Forbes	-	Head of Governance and Corporate Services

Business Plan

2021-2022

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

If you would like a version of this document in hard copy, or in an alternative format, please contact the Equality and Access to Justice Team by telephone on 020 7611 1444 or: equality@barstandardsboard.org.uk

Foreword by the Chair

I am pleased to introduce the Bar Standards Board's (BSB's) Business Plan for 2021-22.

We know that everyone working at the Bar continues to face unprecedented challenges. Like many organisations, the coronavirus pandemic has had a significant effect on our work. For a number of reasons explained in this Plan, it has also reduced our capacity as we move into 2021-22, so in developing our Business Plan for the year ahead, we have had to strike a realistic balance between what we would like to do and what we are capable of delivering.

In 2021-22, we will continue to prioritise our core, day-to-day regulatory work which includes overseeing the education and training requirements for becoming a barrister, monitoring the standards of conduct of barristers and compliance with the rules in our Handbook, including the new transparency rules, and ensuring that everyone we authorise to practise is competent to do so. Where necessary, that will also mean temporarily putting on hold some of our longer-term policy development projects. We want to be certain that we have the resource and focus to undertake our core regulatory activities to the standard expected of us.

The policy development which will remain important includes continuing our work to raise standards at the Bar; completing the final implementation of our Bar training reforms; working with the Bar Tribunals Adjudication Service to review their Sanctions Guidance; and promoting equality and access to justice including tackling bullying, discrimination and harassment at the Bar.

This is the third and final year of our [2019-22 Strategic Plan](#). Our focus over this period has also been to ensure that our recent policy initiatives, such as our reforms to the rules governing Bar training and to our disciplinary and enforcement processes, have been successfully implemented and evaluated. This remains the case despite the effects of the pandemic.

This Business Plan outlines the specific activities that we will undertake during 2021-22 against each of our strategic aims.

Our budget for the year ahead reflects our prudent approach to financial management during a time when the health emergency has had a serious effect on the incomes of many of the barristers who fund us. The budget for 2020-21 is £6,948k. In addition, we contribute £3,871k to the common services (such as IT and Finance) which we share with the Bar Council.

You will be able to read more about how we performed against this Business Plan in our 2022 Annual Report.

Baroness Blackstone, Chair of the Bar Standards Board

Introduction

In this section, we have listed our planned activities in 2021-22 under our three Strategic Aims for this period. These aims are:

- delivering risk-based, targeted and effective regulation;
- encouraging an independent, strong, diverse and effective legal profession; and
- advancing access to justice in a changing market.

You can read more about these aims in our [2019-22 Strategic Plan](#) which explains why we have them and the outcomes which we hope to achieve by the end of this strategic period.

[Our website](#) and the Strategic Plan also explain how our regulatory priorities are set by conducting a risk-based analysis of the market for barristers' services. Our [2019 Risk Outlook](#) describes the key risk themes which we have identified and which our regulatory activities – including those described in this Business Plan – are designed to address. The risk themes in the Outlook are:

- working cultures and professional environment inhibit an independent, strong, diverse and effective profession;
- innovation and disruption in the legal services market offer threats and opportunities for the profession and for the public; and
- the public's access to justice is threatened by affordability constraints and by the complexity and lack of transparency of legal services.

Clearly, the risks facing the profession and within the legal services market look significantly different now given the coronavirus pandemic and this year's Business Plan reflects this.

In this Plan, we have listed our core regulatory activities which we conduct every year as well as providing an overview of the specific policy, and other, work which we will carry out this year. Our focus in 2021-22 will be to deliver our core regulatory work effectively and efficiently in the public interest.

As the regulator of the Bar in England and Wales, our core "business-as-usual" activities include:

- overseeing the education and training requirements for becoming a barrister in line with the new Bar Qualification Rules which we introduced in April 2019;
- monitoring the standards of conduct of barristers; and
- ensuring that everyone we authorise to practise is competent to do so.

We do this by supervising the practice of barristers and the specialist legal services businesses whom we regulate. We deal with any information we receive which might indicate that those we regulate may not be following our rules and where necessary, we take appropriate regulatory action.

This day-to-day core work accounts for most of what we do, so it is important that we undertake this work effectively and efficiently in the public interest.

For a number of reasons, the health emergency has left us in a position of reduced capacity. These reasons include an increase in work as a direct result of the pandemic such as having to administer more exam sittings and having to process more authorisation waivers from a profession also coping with the impact of the health emergency. We have also seen a reduction in available staff resource due to increased sickness and staff having to balance work and caring responsibilities.

So, when developing this Plan for 2021-22, we needed to be certain that we had the resources to undertake these core day-to-day regulatory activities and to deliver them to a high standard. This meant that we had to think carefully about which of our policy development projects were the most urgent and to make some difficult decisions about those which we are going to prioritise this year. The key projects which we are going to undertake this year include:

- continuing our work to raise standards at the Bar. This will include implementing targeted regulation to improve standards of advocacy in Coroners' Courts, looking at how we can improve flows of evidence from the judiciary and others about areas of concern, and how we can improve feedback to individual barristers from a range of stakeholders to inform their self-reflection and continuing professional development;
- continuing to challenge the Bar to promote anti-racism and to tackle discriminatory practices, including by ensuring that barristers' practices have completed the four important actions we asked them to undertake in [our recent Anti-racist Statement](#);
- delivering a robust regulatory approach to tackle bullying, discrimination and harassment within the profession;
- working alongside the profession to ensure there remain sufficient opportunities for students to progress to the work-based learning component of training in light of [the fall in the number of pupillages registered in 2020](#) due to the pandemic;
- completing our work to implement [fully the new Bar Qualification Rules](#) including the introduction of new centralised assessments to take place during pupillage, and to learn the lessons identified by the independent review into the August 2020 exams;
- reviewing the role and effectiveness of the Bar Course Aptitude Test (BCAT) in ensuring that those considering Bar training courses have the aptitude to succeed;
- analysing the responses we received from the 2020 Regulatory Return, following up where necessary with individual practices and determining appropriate regulatory policy action for the future depending on what trends the returns might show;
- continuing our review of the Code of Conduct for barristers (formerly referred to in our Business Plans as a review of the full BSB Handbook, but now only constituting a review of the Code), although this will now proceed more slowly; and
- preparing to publish our next three-year Strategic Plan for 2022-25.

As well as having a three-year Strategic Plan, we also have a dedicated [Equality and Diversity Strategy](#) in which we report on our progress towards fulfilling our statutory objectives under the Equality Act 2010, both as an employer and as the regulator of barristers in England and Wales. This document also sets out our Equality and Diversity objectives.

This Business Plan also provides information about how we are governed and outlines our planned income and expenditure for 2021-22. This shows that the cost of regulation in 2021-22, including our share of the costs of services which we share with the Bar Council, is currently planned to be £11,729k. For comparison, the cost of regulation in 2020-21 was £11,885k. This figure for 2020-21 differs from that published last year as it has been revised to include our capital expenditure (as does the figure for the 2021-22 year, so that they are directly comparable).

Our income and expenditure for the 2021-22 year leaves us with a deficit of £2,009k, given our forecasts of reduced income. Our expenditure in 2021/22 will therefore be funded through the PCF collection along with use of reserves (supplemented by a Coronavirus Business Interruption Loan Scheme (CBILS) loan).

Activities for 2021-22

The work which we plan to undertake during 2021-22 can be categorised into the **core regulatory activities** which our role as the regulator of barristers in England and Wales requires us to do on a day-to-day basis, and the **policy and other project work** which we will complete in order either to improve the way in which we regulate or to review, evaluate and, where necessary, change our rules.

Each of these activities has been listed under one of our three Strategic Aims, so that you can see what we are doing to help us achieve each aim. They are categorised under the strategic aim to which they primarily relate, but some might also contribute to the achievement of desired outcomes under another strategic aim.

Unlike in previous Business Plans, this year we have not published any quarterly milestones. This is partly because of the strong focus on core regulatory activities which by their very nature happen throughout the year, and also because we expect to be flexible with our allocation of resources in the light of the uncertainty of knowing if, how, and how quickly the country and the profession will recover from lockdown.

Previously announced regulatory project work which is not mentioned in this Plan has not been abandoned. If capacity permits this year, or if we are able to engage additional resource, it will be conducted around the activities listed within this Plan. Otherwise, it will be undertaken in subsequent years.

Strategic Aim 1.**Delivering risk-based, effective and targeted regulation.**

The core work that we will conduct through the year:

- authorising organisations that provide the vocational and work-based learning components of Bar training and managing our relationship with them;
- authorising business entities (legal services businesses owned and managed by lawyers or owned and managed by lawyers and non-lawyers);
- managing centralised examinations;
- assessing and authorising applications for waivers and exemptions, and applications from transferring qualified lawyers;
- assessing all the incoming information we receive to determine whether regulatory action is required to address risks to the regulatory objectives;
- proactively supervising those whom we regulate, including considering the information we receive about them;
- investigating allegations of breaches of the professional obligations within the BSB Handbook and taking enforcement action where necessary;
- reporting data and statistics on regulatory decision making;
- fulfilling our duties under the Money Laundering and Terrorist Funding Regulations;
- monitoring and reporting on our performance as a regulator to ensure that we are efficient and effective;
- communicating and engaging with stakeholders; and
- regularly reviewing and reporting to the Board about our evidence of changing risk in the market. We use this to understand how to prioritise our work as a regulator and to look for ways to continuously improve.

The policy development or other activity that we will undertake this year:

- completing our work to implement fully the new Bar Qualification Rules introduced in 2019 including the introduction of new centralised assessments to take place during pupillage;
- implementing the recommendations identified in the report of the independent review into the August 2020 exams;
- reviewing the role and effectiveness of the Bar Course Aptitude Test (BCAT) in ensuring that those undertaking Bar Training Courses have the aptitude to succeed on the course, and if relevant, to implement any changes in time for student applications in 2022;
- engaging with students and other stakeholders in order to continue our ongoing evaluation of the impacts of our recent reforms to Bar training;
- evaluating the effectiveness of the changes we [introduced in 2019 to modernise our decision making](#);
- setting up an independent evaluation of our corporate governance and considering any improvements proposed along with any suggestions from the recent review of our governance by the Legal Services Board;
- consulting on our work to consider the appropriate scope of regulation of barristers' non-professional life;
- working with BTAS to review the Sanctions Guidance which is used by disciplinary tribunals;

Part 1 – Public

- implementing our internally-focused initiatives to understand better the working culture within the BSB and to improve learning and development;
- developing and publishing our Strategic Plan for 2022-25; and
- as capacity permits, continuing our work to simplify the Code of Conduct for barristers, to make sure that it remains fit for purpose and to ensure that any future changes to the Code are evolutionary rather than revolutionary.

The table below shows which of our planned policy development activities under Strategic Aim 1 relate to which of our Regulatory Objectives. Our core day-to-day regulatory work spans all the Regulatory Objectives.

	The Regulatory Objectives:							
	Protecting and promoting the public interest	Supporting the constitutional principle of the rule of law	Improving access to justice	Protecting and promoting the interests of consumers	Promoting competition in the provision of services	Encouraging an independent, strong, diverse and effective legal profession	Increasing public understanding of citizens' legal rights and duties	Promoting and maintaining adherence to the professional principles
Our planned policy development work*in 2021-22:								
Completing our work to implement fully the new Bar Qualification Rules	X		X	X	X	X		X
Implementing the recommendations identified in the report of the independent review into the August 2020 exams	X			X		X		
Reviewing the role and effectiveness of the Bar Course Aptitude Test (BCAT)	X					X		
Engaging with students and other stakeholders in order to continue our ongoing evaluation of the impacts of our recent reforms to Bar training	X		X		X	X		X
Evaluating the effectiveness of the changes we introduced in 2019 to modernise our decision making	X	X		X		X		X
Setting up an independent evaluation of our corporate governance and considering any improvements proposed by the Legal Services Board	X	X	X	X	X	X	X	X
Consulting on our work to consider the appropriate scope of regulation of barristers' non-professional life	X			X		X		X
Working with BTAS to review the Sanctions Guidance which is used by disciplinary tribunals	X			X		X		X
Continuing our work to simplify the Code of Conduct for barristers	X	X	X	X	X	X	X	X

Strategic Aim 2.
Encouraging an independent, strong, diverse and effective legal profession

The core work that we will conduct through the year:

- collecting and publishing diversity data on the profession;
- supervising barristers' practices;
- working with others to understand the factors that influence diversity within the profession;
- undertaking research activity to improve understanding of the legal services market and the impact on the market of BSB regulation; and
- monitoring barristers' Continuing Professional Development (CPD).

The policy development or other activity that we will undertake this year:

- working alongside the profession to ensure the future of pupillage in light of the fall in the number of pupillages registered in 2020 due to the pandemic;
- continuing our work to raise standards at the Bar by reviewing how we can improve flows of evidence from the judiciary and others about areas of concern, and how we can improve feedback to individual barristers from a range of stakeholders to inform their self-reflection and continuing professional development;
- implementing our joint work with the Solicitors Regulation Authority in relation to advocacy within the Coroners' Courts including publishing expected competences and a toolkit of resources for barristers (and other legal professionals) who undertake this work;
- scoping our work in relation to our regulation of barristers in their early years of practice to assure their competence and their continuing professional development – work which amongst other things may result in future years in changes to Continuing Professional Development (CPD) for newly qualified practitioners;
- continuing to challenge the Bar to promote anti-racism and to tackle discriminatory practices, including by ensuring that barristers' practices have completed the four important actions we asked them to undertake in [our recent Anti-racist Statement](#) and where necessary to work with practices to make sure their commitments in this area are met;
- working alongside stakeholders to deliver robust improvements to our regulatory approach in tackling bullying, discrimination and harassment at the Bar;
- analysing the responses we received from the 2020 Regulatory Return, following up where necessary with individual practices, and determining appropriate regulatory policy action for the future depending on what trends the Returns might show; and
- as capacity permits, continuing our review of the Equality Rules within the BSB Handbook to ensure that they remain fit for the purpose of delivering the equality and diversity objectives for the profession as a whole.

Part 1 – Public

The table below shows which of our planned policy development activities under Strategic Aim 2 relate to which of our Regulatory Objectives. Our core day-to-day regulatory work spans all the Regulatory Objectives.

	The Regulatory Objectives:							
	Protecting and promoting the public interest	Supporting the constitutional principle of the rule of law	Improving access to justice	Protecting and promoting the interests of consumers	Promoting competition in the provision of services	Encouraging an independent, strong, diverse and effective legal profession	Increasing public understanding of citizens' legal rights and duties	Promoting and maintaining adherence to the professional principles
Our planned policy development work*in 2021-22:								
Working alongside the profession to ensure the future of pupillage in light of the fall in the number of pupilages registered in 2020	X		X	X	X	X		
Continuing our work to raise standards at the Bar by reviewing how we can improve flows of evidence from the judiciary and others about areas of concern	X	X	X	X	X	X		X
Implementing our joint work with the SRA in relation to advocacy within the Coroners' Courts	X	X	X	X				X
Scoping our work in relation to our regulation of barristers in their early years of practice to assure their competence and their continuing professional development	X		X	X	X	X		X
Continuing to challenge the Bar to promote anti-racism and to tackle discriminatory practices	X		X	X		X	X	X
Working alongside stakeholders to deliver robust improvements to our regulatory approach in tackling bullying, discrimination and harassment at the Bar	X		X	X		X		X
Analysing the responses we received from the 2020 Regulatory Return	X		X	X	X	X		X
Continuing our review of the Equality Rules within the BSB Handbook	X	X	X	X	X	X		X

Strategic Aim 3. Advancing access to justice in a changing market

The core work that we will conduct through the year:

- providing information to the public about barristers and legal services;
- working with our stakeholders and other regulators and agencies to understand some of the barriers to accessing justice. This includes the reduced availability of Legal Aid, and the increased prevalence of remote hearings and other consequences of the health emergency;
- sharing information with the public to help them overcome these barriers;
- continuing to implement our public engagement strategy to increase public understanding about legal services, and in particular those offered by barristers, in partnership with consumer organisations; and
- providing ongoing assurance of professional competence.

The policy development or other activity that we will undertake this year:

- using our research with consumers to better understand what matters to them when using barristers' services;
- collaborating with other regulators to understand the possible benefits of quality indicators and pilot new approaches;
- developing a regulatory approach to how barristers might use consumers' feedback about their services to improve the quality indicators available to those seeking to engage the Bar; and
- ensuring compliance with the current [rules on price transparency](#), and undertaking an evaluation of the impact of those rules.

Strategic Aim 3:

	The Regulatory Objectives:							
Our planned policy development work*in 2021-22:	Protecting and promoting the public interest	Supporting the constitutional principle of the rule of law	Improving access to justice	Protecting and promoting the interests of consumers	Promoting competition in the provision of services	Encouraging an independent, strong, diverse and effective legal profession	Increasing public understanding of citizens' legal rights and duties	Promoting and maintaining adherence to the professional principles
Using our research with consumers to better understand what matters to them when using barristers' services	X		X	X	X	X	X	
Collaborating with other regulators to understand the possible benefits of quality indicators and pilot new approaches	X		X	X	X		X	X

Developing a regulatory approach to how barristers might use consumers' feedback about their services to improve the quality indicators available to those seeking to engage the Bar	X		X	X	X		X	X
Ensuring compliance with the current rules on price transparency, and undertaking an evaluation of the impact of those rules	X		X	X	X		X	

The role and work of the BSB

The Bar Standards Board is made up of a combination of lay people and barristers. It has a lay majority and a lay chair, Baroness Tessa Blackstone.

Leadership

The Board is responsible for leading the organisation. It sets our direction and approves policy and strategy. The Board supports the Executive in representing the BSB with external stakeholders and accepts collective accountability for the organisation's work in regulating barristers in the public interest.

Accountability, assurance and oversight

The Board, and its standing committees, monitor the work and performance of the organisation. It holds the executive to account for:

- the commitments made in this Business Plan;
- the BSB's agreed service standards; and
- the delivery of key milestones to time and to budget.

Strategy

The Board sets and approves the strategy for the organisation, taking account of the wider regulatory and risk landscape. When approving its strategy, it takes account of short-term pressures but also maintains sight of broader long-term trends.

Our Board discharges some of its functions through the following standing committees:

- **The Governance, Risk and Audit Committee (GRA)** 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 risk management framework and our internal audit function.

- **The Strategic Planning and Resources Committee (SPR)** is responsible for work relating to development of our strategic direction and plans. It advises the Board on developments to the planning and resource setting processes. It also considers whether financial and operational resources are properly and effectively allocated and efficiently managed across our organisation.

The Board has also established the Independent Decision-making Body (IDB) which is made up of 31 decision makers, 13 of whom are barristers and 18 are members of the public who are not solicitors or barristers. It makes decisions by sitting in panels about cases passed to the Legal and Enforcement Department for investigation that may require disciplinary action. It also makes decisions about appeals that have been made against a decision not to license a body to provide legal services, or appeals against decisions about whether or not barristers or authorised bodies need to meet specific BSB Handbook requirements.

Our work is also overseen by the Legal Services Board, in accordance with the Legal Services Act 2007.

Our 2021-22 budget

Our budget year runs from 1 April 2021 to 31 March 2022.

How is the BSB funded?

Most of our funding comes from Practising Certificate Fees (PCF) and Bar Council reserves. These income streams are not within our direct control but are forecast using the latest available market data. Our income streams other than the PCF come from charges we make for specific services we provide to individuals and organisations, and we use historical and market data to forecast what we expect to receive. These income streams include, for example, the fees from Authorised Education and Training Organisations (AETOs), and the Bar Transfer Test (BTT). We independently set our own budget with regard to the forecasts for both PCF income and income streams other than the PCF.

The Practising Certificate Fee (PCF)

The PCF is collected by the General Council of the Bar (GCB). The GCB's income from the PCF is divided between:

- the BSB for regulation (58% £6,926k)
- the Bar Council for some of its functions (as permitted under s51 of the Legal Services Act) (24% £2,878k) and
- the remaining 18% (£2,144k) is paid to fund GCB pensions (£1,300k) and to the Legal Ombudsman and the Legal Services Board (£844k) to fund their services.

The 58% of PCF income which we receive for regulation accounts for 72% of our total funding. The BSB and the GCB have consulted on our budgets and PCF proposals with the profession and have received approval from the Legal Services Board. This year's budget was determined with reference to the fact that we know 2020 was a financially very challenging year for many parts of the Bar, and our financial commitments in 2021-22 have been adjusted accordingly.

<i>Income streams other than the PCF</i>	£k
Entity Regulation and ABS	80
Authorisations – Waivers and Accreditation	108
Examinations	190
Bar Training	1,350
Training provider authorisations	8.8
Prosecution costs	40
Public access	1.2
Total non-PCF income	1,778
Total PCF income	7,836
Contribution from Resources Group income	106
Total BSB income	9,720

Regulation – the costs explained

The BSB has direct control of a budget of £6,948k for 2021-22. We formulate our own budget in accordance with our priorities and strategy. However, this budget does not reflect the full cost of the BSB. We share the costs of common services with the Bar Council including a share of the premises at 289-293 High Holborn as well as relying upon the shared Resources Group to carry out support work (IT, Finance, and certain Human Resource and Project Management functions).

The Resources Group budget, which includes our share of the costs of our shared premises, is managed separately and part of that budget (£3,871k) is apportioned to the BSB. We will as always look to ensure that our expenditure is allocated wisely and in a way that delivers maximum value-for-money for those who fund us. The organisation undertakes rigorous prioritisation exercises as part of business planning. Only activity deemed essential is agreed and included in the Business Plan.

How will we spend our budget?

<i>Budgets controlled directly by the BSB</i>	£k
Staff Costs¹	4,957
Non-Staff Costs	
Regulatory Operations	1,036
Legal and Enforcement	515
Strategy and Policy	207
Communications and Public Engagement	60
Corporate Services	147
Chair and Director General	6
Total non-staff costs	1,971
BSB contribution to shared services	3,871
Total operating expenditure	10,799
Total Non-Operating Expenditure	
Capital expenditure	20
Defined benefit pensions scheme	910
Total Expenditure	11,729

¹ As well as salary and associated on-costs, “Staff Costs” includes provision for temporary staff, recruitment, training, and the expenses incurred by staff in the course of performing their duties.

The deficit of £2.009 million we project for 2021/22 will be financed by the use of reserves, supplemented by a Coronavirus Business Interruption Loan Scheme (CBILS) loan.

Further reading

To obtain a fuller picture of who we are, what we do, and the context in which this Business Plan was produced, please visit the following pages on our website:

- Risk-based regulation is an integral part of how we regulate the Bar and how we develop our strategy. You should read our [Risk Outlook](#), our [Risk Framework](#) and our [Risk Index](#) to understand more about this aspect of our work and to gain a better understanding of how we arrived at the strategic aims described in this Plan.
- This Business Plan is designed to be in read in conjunction with our [2019-22 Strategic Plan](#) which you can read on our website.
- More information about our work around [equality and diversity](#) can be found here.
- [Our organisational values](#) describe the way in which we conduct all our work including the activities described in this Plan.

Meeting:	Bar Standards Board	Date:	18 March 2021
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Title:	How can the BSB improve its engagement with consumers?
Author:	Wilf White
Post:	Director of Communications and Public Engagement

Paper for:	Decision: <input checked="" type="checkbox"/>	Discussion: <input checked="" type="checkbox"/>	Noting: <input type="checkbox"/>	Other: <input type="checkbox"/> (enter text)
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Paper relates to the Regulatory Objective (s) highlighted in bold below	
(a)	protecting and promoting the public interest
(b)	supporting the constitutional principle of the rule of law
(c)	improving access to justice
(d)	protecting and promoting the interests of consumers
(e)	promoting competition in the provision of services
(f)	encouraging an independent, strong, diverse and effective legal profession
(g)	increasing public understanding of citizens' legal rights and duties
(h)	promoting and maintaining adherence to the professional principles
<input type="checkbox"/>	Paper does not principally relate to Regulatory Objectives

Recommendation(s)

<p>The Board is asked to decide whether the BSB should re-establish a formal Consumer Panel or whether instead we should take a number of measures to improve our engagement with consumers including to :</p> <ul style="list-style-type: none"> • increase the number of consumer experts on our Advisory Pool of Experts, • establish a wider and more flexible pool of consumer bodies rather than a formal Consumer Panel and • remind authors that they should record what consumer engagement they have done in their Board papers.

Executive Summary

<p>The attached paper reviews our current work to engage with consumers in our research and policy making and, reconsiders the case for re-establishing a BSB Consumer Panel in the light of further discussions with other regulators and the Legal Services Consumer Panel. It concludes in the light of that research that a flexible pool of consumers may be better than a formal Panel and that we should also pursue other methods of improving our engagement with consumers.</p>

Risk

<p>These proposals seek to add to our current work to mitigate Risk R051 in the Corporate Risk Register which reads “Lack of Stakeholder engagement with the BSB impedes policy development and implementation”</p>

Resources (Finance, IT, HR)

The proposals set out in this paper could all be met from within existing budgets. A budget of up to £10,000 pa is proposed.

Equality & Diversity

Better engagement with consumers, provided we engage with genuinely diverse groups, should improve our ability to make policy which promotes equality and diversity and meets our duties under the Equality Act 2010.

How can the BSB improve its engagement with consumers?

Status

1. For discussion and decision.

Executive Summary

2. At its meeting on 28 November 2020 the Board supported the proposal that we needed to do more to increase our consumer engagement and supported the idea of forming a Consumer Panel in principle but made clear that that endorsement was subject to further consideration. In particular, the Board was concerned to ensure that any Panel should have a wide enough membership to be truly representative and that it should not duplicate the work of the Legal Services Consumer Panel (LSCP). This paper updates the Board on that further consideration and reconsiders the case for re-establishing a BSB Consumer Panel.
3. The paper concludes that a formal Panel would be very difficult through its terms or reference and membership to ensure that it was truly representative and did not duplicate the work of other bodies. It therefore recommends that we increase the number of consumer experts on our Advisory Pool of Experts, establish instead a wider and more flexible pool of consumer bodies from which subgroups could then be chosen to advise on specific issues and that we remind authors that they should record what consumer engagement they have done in their Board papers.

Summary of Recommendations

4. The Board is asked to **decide** whether the BSB should:
 - increase the number of consumer experts on our Advisory Pool of Experts,
 - establish a wider and more flexible pool of consumer bodies rather than a formal Consumer Panel and
 - remind authors that they should record what consumer engagement they have done in their Board papers.

How do we engage with consumers at present?

5. One of the eight statutory objectives imposed on legal regulators by the Legal Services Act 2007 is “protecting and promoting the interests of consumers”. s207 of the Act provides that the word “consumers” is to be defined widely. In my last paper I set out the extensive work we already do to seek to gather the opinions of those who use barristers’ services, or who are affected by their use by others including Press Releases, our website, social media, targeted engagement activities, public consultations and research.

Do we need to improve that engagement?

6. As Board members are aware, whenever we begin a new policy project we seek to set up a Communications and Public Engagement (CPE) Plan and to involve consumers and all relevant stakeholders (including for example solicitors as the most frequent direct consumers of barristers’ services) in our policy making as far as possible. A CPE representative is always present on every Programme Board. Policy proposals put to the Board always therefore reflect that input, even if that is not always made explicit. But although we make considerable efforts to do so, I set out in my previous paper the difficulties we often have getting consumers and consumer bodies to engage with our work: individual consumers are understandably reluctant to discuss what may have been a deeply personal and traumatic experience that led them to court – our current work to improve standards of advocacy in the Coroners Courts is an obvious example of where involving consumers with experience of these courts has to be handled with great sensitivity - and consumer bodies cite a very understandable lack of

resources, a sense that consumer satisfaction with barristers is high and the fact that most consumers either never use a barrister or do so via a solicitor. Consumer engagement has been especially difficult during the current pandemic when many consumer bodies have seen their incomes severely reduced and have had to furlough staff. Our argument - that the public should take an interest in the Bar in its role upholding the rule of law and because consumers who need a barrister are likely to be in a very vulnerable position - is not always persuasive. And of course we do have to try to remember that we must interpret the word “consumer” broadly, and consult both consumer bodies and individual consumers where we can – so we cannot simply assume that consumer bodies can always be fully representative.

7. It was these considerations that led us to consider ways of improving our engagement with consumers including:
 - expanding the membership of our Advisory Pool of Experts (APEX) to include more consumer representatives; or
 - re-establishing a Consumer Panel of our own.

Consultation

8. Having been given approval in principle to pursue the idea of a Consumer Panel further by the Board, I have given further thought to the possible terms of reference, membership and practicalities of a Consumer Panel and I have also spoken to:
 - Jane Malcolm, Executive Director - External and Corporate Affairs at the SRA
 - Carilyn Burman, CEO of CILEx Regulation and
 - to the staff and (with Kathryn Stone – for whose support I am very grateful) to members of the Legal Services Consumer Panel.
9. It has proved difficult to design terms of reference that would avoid any risk of creating conflict with the role of lay members of the Board, who also of course have a key role in representing consumers, and with that of the Legal Services Consumer Panel (LSCP). The Terms of Reference of the previous Board were “to provide expert, evidence-based advice to the BSB and its Committees, and in particular to:
 - *Respond to consultations on changes to the rules and procedures of the Board*
 - *Propose areas of work that the Board should consider*
 - *Consider research initiated by the Board and contribute to its development and comment upon the results*
 - *Publish advice given to the Board*
 - *Publish an annual report to the Board.*
10. Deciding the membership of such a Panel has also proved problematic – a relatively small Panel risks excluding consumer groups with a legitimate interest in our work but too large a Panel would be very difficult to manage.
11. When we presented the idea of a Consumer Panel as one which our Board wanted to consider in conversations with the SRA, CILEx and the LSCP, similar points were made. The SRA argued that they prefer to use the LSCP directly and to use Twitter and Facebook polls and questions in the ComRes household survey along with public focus groups. They also occasionally advertise their consultations on Gumtree offering shopping vouchers to members of the public who respond. This allows them to be more flexible and to decide to use different consumer groups for different areas of work. CILEx said that they, like us, had tried having a Consumer Panel more recently but had now adopted a more flexible approach. They felt that it had been difficult to recruit to a fixed panel and that such panels “date very quickly” and inevitably, and through no fault of their own, cannot always have the right experience to cover every area of the regulator’s work. Like the SRA, and as we currently do, they therefore now have a more flexible case by case approach involving different consumer groups for different areas.

12. Our meetings with the LSCP raised similar concerns. Although they welcomed the efforts we were making to further improve our engagement with consumers, Panel members were much more sceptical about the idea of a formal Panel. They felt that there was a real danger of duplication of effort with their own work. They suggested that having a wider pool of consumer experts from which one could constitute subgroups might be more effective and they did not think that all the members of such sub groups would expect to be paid. I am sure the LSCP are right - larger and more business-focused organisations might not expect to be paid for their advice – but given the severe resource constraints which many smaller and charitable bodies face I do think that we should consider keeping that possibility open for them – in my last paper I suggested using up to £10,000 – which I can find from my from my events budget - for this purpose. We must however be careful here – we should not want any perception to emerge that because we have paid for advice the relevant body has not been as candid or as critical as they would wish. The LSCP also saw merit in our strengthening APEX further by adding further consumer representatives. They urged caution around engaging via social media but they did think that the more widespread use of virtual engagement as a result of the pandemic presented a great opportunity for wider and cheaper social engagement in future. Finally they also encouraged us to engage more directly with individual consumers and to make use of the larger pool of individual consumers run by a company called Community Research.

Recommendations

13. Given what our further work and research has uncovered we think that a fixed and formal Consumer Panel may not now be the best way to improve our consumer engagement. We suggest instead that we should consider:
- Drawing up an informal pool of consumer experts from which we could constitute subgroups ad hoc to consult on individual areas of work, although the pool itself would never need to meet
 - Keeping open the option of paying charitable consumer groups for their advice with a budget of £10,000 pa while taking steps to ensure that this was not seen as undermining their independence
 - Ensuring that, as well as individual consumers, we follow the Legal Services Act's broad definition of consumers so that groups such as solicitors and small businesses are also represented in our pool
 - Holding meetings of these subgroups virtually to cut the cost of doing so and facilitating attendance including from representatives outside London
 - Expanding APEX. We recently appointed Stewart Horne to APEX as a consumer affairs expert but it may be worthwhile appointing one or two more consumer expert members. Although for most subjects we have a single APEX member, there are exceptions and finding a consumer expert whose expertise is wide enough to cover the whole range of consumers is impossible.
 - Making use of the LSCP and the Community Research pool of consumers where it is appropriate and economical to do so.
 - Examining the use of ComRes surveys where adding a question can be done quite economically
 - Considering the use of shorter and more informal means of consultation in addition to our more formal consultation documents – while all our longer documents already include an Executive Summary and do need to be comprehensive and thorough, their length is perhaps rather off-putting for those whose time and resources are very limited
 - Making more use of social media to raise awareness of our consultations even if not necessarily as a medium for consultation itself
 - Reminding the authors of Board papers to include a section setting out what consumer engagement they have done.

14. If the Board agrees, we should be able to take forward these arrangements swiftly so that all our policy work gains from an enhanced input from the public and from consumers. This will be particularly important as we develop our next three-year strategy for 2022-2025 so that we can ensure that our updated analysis of the risks to regulatory objectives, and hence our new strategic priorities, reflect consumer perspectives. We could, for example, use our pool of consumer bodies to form virtual roundtables later in the year, one perhaps focused on personal consumers and the other on SMEs.

Wilf White
Director of Communications and Public Engagement

Bar Standards Board – Director General’s Strategic Update – 18 March 2021**Public session****Equality and Diversity update**

1. The Equality and Access to Justice team is planning to establish two new taskforces: one focusing on Religion and Belief and another focusing on Disability. The two bodies will provide specialist advice to the BSB on policy, strategy and activity to help us fulfil our statutory objectives. In particular, they will also play an important role in reviewing the Equality Rules.
2. The pilot race equality reverse mentoring scheme continues and currently has 16 pairings. We will shortly begin engagement with participants to review their progress and to evaluate the impact of the pilot so far.

Competition & Markets Authority: *Review of the Legal Services Market*

3. The CMA published its review of the Legal Services Market in December. The Legal Services Board has indicated that, in response, it will develop a policy statement for the sector which, following consultation, it expects to publish in the Summer. There are active discussions under way about how the LSB and independent regulators can best work together to develop cross-cutting responses to the CMA report which nevertheless recognise the distinctiveness of the different professions.
4. Amongst other recommendations, the CMA also recommended that regulators should undertake further work on the design of quality indicators, the progress on which has been slow since the 2016 recommendations. In response, the LSB has issued a discussion paper with a response deadline off 22 April, which can be found [here](#). This discussion paper was accompanied by a research paper issued by the Legal Services Consumer Panel. We will be responding to this discussion paper.
5. The SRA has launched a pilot scheme, which aims to further improve the information available to the public when choosing a conveyancing provider. Working alongside the Council for Licensed Conveyancers and CILEx Regulation, this pilot aims to encourage greater use of online information within the legal sector, including through comparison websites and online review platforms. We are an observer on the working group and are working separately with the SRA to test the potential of expanding this pilot to cover employment services (which is currently in the scoping stage).

Legal Tech

6. We have been working to improve our understanding of the use of lawtech in the sector given the important role innovation and technology could play in improving access to justice. We are participating in a government backed initiative aimed at supporting digital transformation of the UK legal sector. As part of this initiative, we are working alongside other legal services regulators to provide regulatory support to those innovators who were successful in the pilot phase of this initiative. A list of the projects and more on this initiative can be found [here](#). As an example, one of the participants in this pilot is Legal Utopia, who are looking to develop quality indicators for consumers across the legal sector. We have been liaising with Legal Utopia to understand how they may develop this for Barristers. This also links with our work on quality indicators as Legal Utopia are participating in the SRA pilot.

7. The Regulatory Return included questions relating to the current and future use of technology, and the perceived risks and barriers to the take up of technology. Responses to these questions will help us understand where we might be able to do more to enable innovation and better use of technology.

Performance

8. I attach, for review, the dashboard summarising the performance of BSB in the third quarter both in delivering our Business Plan commitments and in meeting the service standards (KPIs) we have set for our core regulatory work. My overall view is the organisation has performed with great credit given the pressures imposed on individuals by the health emergency and the extra work generated by our response to the emergency. As the dashboard shows, we have largely delivered the major initiatives foreshadowed in the 2020/21 Business Plan, while also undertaking important new work to move the central examinations on-line last Summer and to analyse the impact of the health emergency on the profession and on the achievement of our regulatory objectives. Our recently published report on the supply of pupillage places is a good example of the latter. We expect to follow up that report with a roundtable of stakeholders shortly.
9. Where we have struggled as an organisation is in keeping pace with a rising volume of core regulatory work – reports, authorisations and disciplinary cases – although it is very important to state that the latest report from the Independent Reviewer – discussed by the Governance, Risk and Audit Committee last month – confirms that the quality of decision-making remains high. We have not, however, succeeded in meeting our service standards for turning round work and, in consequence, there are backlogs of reports and authorisations under consideration.
10. The health emergency has certainly contributed to this. Illness and the need to juggle work and caring responsibilities has, understandably, reduced the productivity of many colleagues. As set out in the parallel paper on the *Business Plan 2021/22*, we have also come to the conclusion that the new structure put in place in the Autumn of 2019 lacks the resilience needed to deal with unexpected demands. We recommend some modest strengthening of capacity to address this lack of resilience. We are also taking other steps to improve our productivity.
- We are investing appropriately in our systems: the Case Management System is now fully in place and the integration of Caselines system for the electronic bundling of documents will be implemented soon.
 - Where we can without detriment to quality, we are streamlining our processes. The decision, endorsed by the Board in January, to cease the anonymisation of gender in papers going to the Independent Decision-making Body is an example of this. We are also looking to improve the initial triaging of reports to BSB by identifying and responding quickly to reports which have no merit. And we want to head off unnecessary work responding to requests for information about the progress of work by providing automatic updates to members of the public and barristers who have made reports or sought authorisations.
 - We are considering whether the best response to the backlogs which have built in is to put some additional short-term resource into a backlog busting effort which will enable relevant teams to focus on, and get on top of, the continuing flow of new reports and authorisation requests.
11. As set in the *Business Plan 2021/22*, meeting service standards for our core regulatory work will be a priority for the year ahead.

Q3 Dashboard (2020-21)

Strategic Aim 1

Delivering risk-based, effective and targeted regulation

Task	Assigned to	Size	Priority	Status/ On Target	Budget	Ctrl	Ref
1 BSB Handbook Review	S&P	4	High	●	●	BSB	
2 Regulatory Decision Making	LED/ROD	2	Medium	●	●	BSB	
3 Regulatory return	ROD	4	High	●	●	BSB	
4 Modernising decision-making	LED/ROD	2	Medium	●	●	BSB	
5 FBT - development of new exams	ROD	3	High	●	●	BSB	
6 FBT - evaluation	ROD	2	High	●	●	BSB	
7 Compliance with LSB IGRs	DG	2	High	●	●	BSB	
8 Non-professional activities	LED	2	Medium	●	●	BSB	
9 Moving to paperless working	LED	2	Medium	●	●	BSB	
10 Costs Recovery - Disciplinary Tribunal	LED	2	Medium	●	●	BSB	
11 Risk based regulation	S&P	2	High	●	●	BSB	
12 Money laundering regulations	ROD	1	Medium	●	●	BSB	

Strategic Aim 2

Encouraging an independent, strong, diverse and effective legal profession

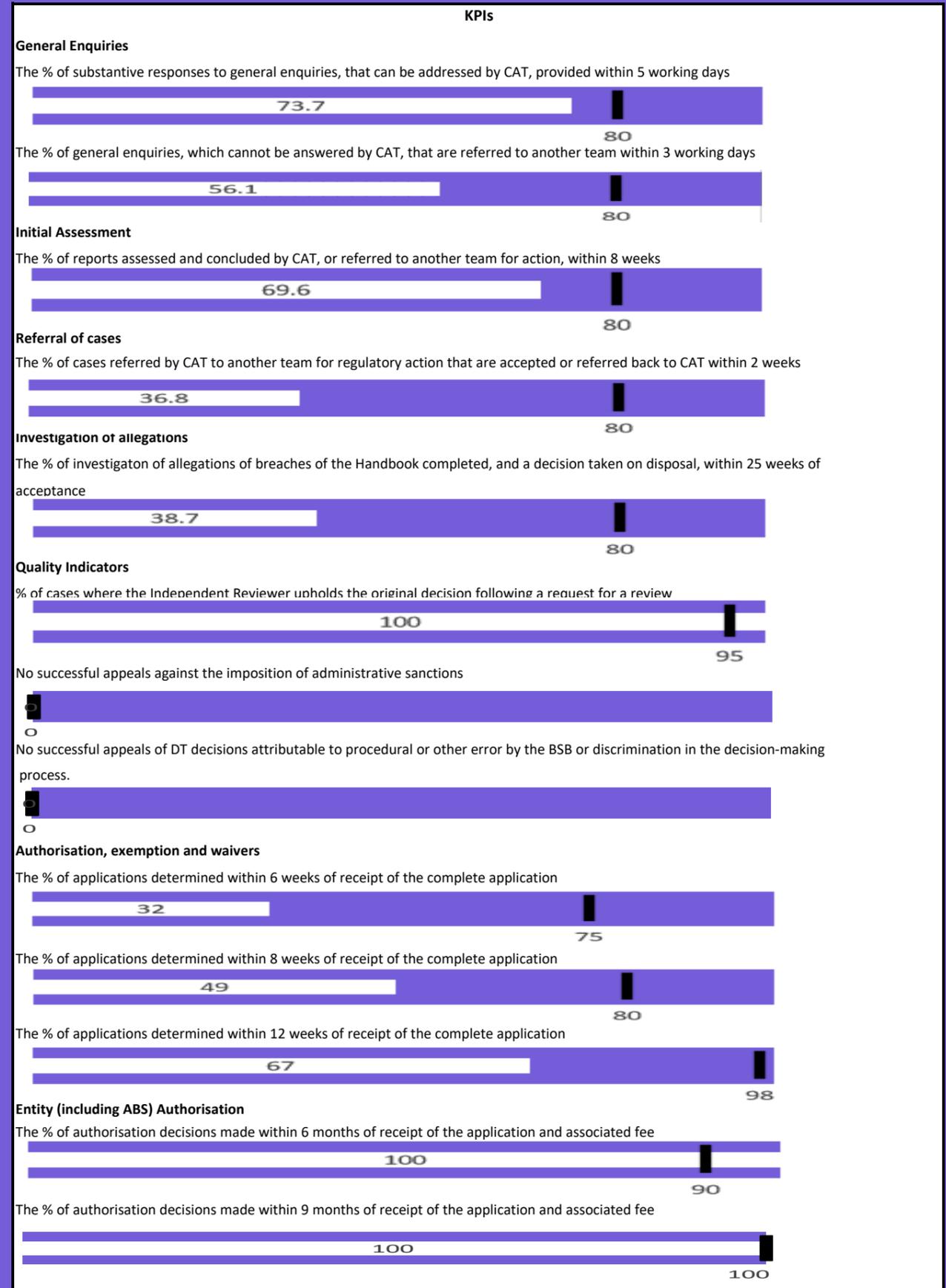
Task	Assigned to	Size	Priority	Status/ On Target	Budget	Ctrl	Ref
13 Bullying and Harassment	S&P	2	Medium	●	●	BSB	
14 Research publications	S&P	2	Medium	●	●	BSB	
15 Professional Indemnity Insurance	S&P	1	Medium	●	●	BSB	
16 Equality and Diversity Strategy	S&P	1	High	●	●	BSB	
17 Assuring standards at the Bar	ROD	3	Medium	●	●	BSB	

Strategic Aim 3

Advancing access to justice in a changing market

Task	Assigned to	Size	Priority	Status/ On Target	Budget	Ctrl	Ref
18 Public Legal Education	CPE	3	High	●	●	BSB	
19 Evaluation of transparency rules	S&P	3	High	●	●	BSB	

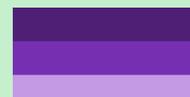
2020 - 21 Q3 YTD Actuals v Budget			
	(k)	(k)	(k)
	Actual	Budget	Var
Income	1,941	1,341	600
Expenditure	4,401	4,679	278



Key

Size ↑
4 Large piece of work
↓
1 Small piece of work

Weighting



Directorates

CPE: Communications and Public Engagement
LED: Legal and Enforcement
ROD: Regulatory Operations
S&P: Strategy and Policy

Chair’s Report on Visits and External Meetings from 1 February – 18 March 2021

Status:

1. For noting

Executive Summary:

2. In the interests of good governance, openness and transparency, this paper sets out the Chair’s visits and meetings since the last Board meeting.

List of Visits and Meetings:

1 February	Met with Sir Andrew MacFarlane, President of Family Division with Mark Neale
9 February	Attended the Regulator Chairs’ meeting with Mark Neale
26 February	Introductory meeting with Lord Wolfson of Tredegar, QC Parliamentary Under Secretary of State
16 March	Attended Chairs’ Committee meeting
16 March	Attended Board briefing