

<p>BAR STANDARDS BOARD</p>
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REGULATING BARRISTERS

**Part 1 - Public****Minutes of the Bar Standards Board meeting****Thursday 27 January 2022 (4.30 pm)****via MS Teams**

- Present:** Baroness Tessa Blackstone (Chair)  
Alison Alden OBE  
Emir Feisal  
Steve Haines  
Andrew Mitchell QC  
Elizabeth Prochaska  
Irena Sabic  
Leslie Thomas QC
- By invitation:** Iain Christie (Chair, BSB Independent Decision Making Body – IDB)  
Malcolm Cree CBE (Chief Executive, Bar Council)  
Mark Fenhalls QC (Chair, Bar Council)  
Lorinda Long (LL) (Treasurer, Bar Council)  
Nick Vineall QC (NV) (Vice Chair, Bar Council)
- BSB Executive in attendance:** David Adams (Corporate Services Manager)  
Shadae Cazeau (Head of Equality & Access to Justice)  
Rebecca Forbes (Head of Governance & Corporate Services)  
Teresa Haskins (Head of People, BSB)  
Andrew Lamberti (Communication Manager)  
Ewen Macleod (Director of Strategy & Policy)  
Mark Neale (Director General)  
John Picken (Governance Officer)  
Wilf White (Director of Communications & Public Engagement)  
Julia Witting (Head of Supervision)
- Press:** Neil Rose, Legal Futures

**Item 1 – Welcome / Announcements**

1. The Chair welcomed attendees, in particular the following individuals to their first Board meeting:
  - Emir Feisal, a new lay Board Member who will also represent the BSB on the BTAS Strategic Advisory Board;
  - Mark Fenhalls QC, the new Chair of the Bar Council;
  - Nick Vineall QC, the new Vice Chair of the Bar Council;
  - Shadae Cazeau, the recently appointed Head of Equality and Access to Justice.
2. She also welcomed Iain Christie, Chair of the Independent Decision Making Body (IDB) who had been invited to speak to item 9 of the agenda (IDB Annual Report);
3. She noted with regret that two longstanding staff members, Andrew Lamberti (Communications Manager) and Peter Astrella (Regulatory Risk Manager), are leaving the BSB to take up new roles elsewhere. She thanked both for their sustained and valuable contribution to the BSB over the years and wished them well for the future.

## Part 1 - Public

**Post meeting note:** the Chair had intended to announce in public session her decision to stand down from the BSB but omitted to do so. She later confirmed this intention in the private session of the meeting and will leave her role in summer 2022.

4. **Item 2 – Apologies**

- Kathryn Stone OBE
- Stephen Thornton CBE
- Oliver Hanmer (Director of Regulatory Operations)

**Note:** Adam Solomon QC was absent from Part 1 of the meeting but was able to attend for Part 2.

**Item 3 – Members’ interests and hospitality**

5. None.

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

6. The Board approved the Part 1 (public) minutes of the meeting held on 23 September 2021.

**Item 5a – Matters arising & action list**

7. The Board **noted** the action list.

**Item 5b – Forward agenda**

8. The Board **noted** the forward agenda list but asked that the number of items for the March Board meeting be reconsidered. Some items, which had originally been scheduled for earlier dates, have since been deferred until March. In consequence, the size of that agenda is now too large.

**MN /  
JP to  
note**

**Item 6 – Regulatory Decision Annual Report 2020/21**

BSB 002 (22)

9. Sara Jagger highlighted the following:

- the report reflects a period when the pandemic detrimentally affected work patterns. The impact of this is reflected in the key performance indicator (KPI) results and underlines the need to build better organisational resilience in the BSB as described in our strategy document;
- the Contact Assessment Team (CAT) saw a significant rise in the number of reports (an overall increase of 54%);
- an increasing number of reports relate to content added by barristers to social media platforms;
- our forthcoming review of regulatory decision-making processes and procedures will seek to identify further efficiency gains.

10. In response to questions raised, the following points were made:

- the report was published in November 2021 and was well covered by the legal press at that time with a particular focus on the increase in the volume of reports. The explanation for the rise might reflect our earlier efforts to make the process of reporting easier and more accessible through our website;
- in some instances, a large number of reports concerned the same issue about which there had been wide publicity eg the Government’s proposed Internal Markets Bill. Though they had a common theme, these reports often varied as to the issues they raised. It meant a collective response could apply to just some, of the reports but not all. Those remaining needed to be individually assessed;
- reports arising from social media tend to relate to matters outside of the legal professional life of barristers.

11. Andrew Mitchell QC asked about current performance standards compared to those mentioned in the report and future prospects for meeting KPIs. In response, the Executive stated that:
- in respect of the CAT, performance against KPIs has improved following steady increases in productivity. We hope to meet targets on timeliness by the end of this year;
  - in the short term, KPI targets for the investigations and enforcement team will continue not to be met. This is due to the long lead-in time required for new staff to be recruited, inducted and fully trained. We are only likely to see improvements from Quarter 2 of 2022/23 onwards;
  - KPIs will be reported to the Board on a quarterly basis with the next set of figures due in March 2022.

12. **AGREED**  
to note the report.

### **Item 7 – Regulatory Return**

BSB 003 (22)

13. Julia Witting highlighted the following:
- the report summarises the outcome of the full regulatory return exercise (previously the Board had only seen data about the impact of the pandemic on the profession);
  - this engagement with the profession has been helpful in:
    - providing an evidence base for our continuing role as a risk based regulator;
    - identifying trends, market level risks as well as examples of good practice within chambers.

14. **AGREED**  
to note the report.

### **Item 8 – Annual Diversity Data Report**

BSB 004 (22)

15. Shadae Cazeau highlighted the following arising from the annual diversity data report:
- the rise in the number of pupillages since the last report (from 354 to 511). This suggests an encouraging bounce back from the effects of the pandemic;
  - the overall increase in disclosure rates, though some categories still remain below statistically valid levels;
  - our intention to discuss with other regulators the best options of further improving disclosure rates. This might involve reviewing the questions asked and possibly looking for alternative approaches.
16. In response to a question about contextualising the data over time, the Executive stated that:
- this series of diversity data reports commenced in 2015 so direct year to year comparisons can only occur within this period;
  - we did publish a report on [trends in retention and demographics at the Bar: 1990-2020](#) which has a longer term view but just focuses on age, ethnicity, and gender;
  - we cannot easily trace the career paths for individuals within cohorts over time but can look at broader categorised data for general trends.
17. Leslie Thomas QC referred to data on successful QC applications. He suggested some additional research work around ethnicity may be useful ie:
- the length of time it takes for a barrister to become a silk;
  - the number of attempts before a successful application is achieved;
  - any perceived barriers which might deter those with protected characteristics from making applications in the first place.

18. Members welcomed this suggestion but also acknowledged the risk of unintentionally identifying individuals from a detailed analysis of a small pool of data. Notwithstanding this there would be merit in developing a pathway for this information with QCA providing appropriate safeguards are in place.
19. A number of comments were made on the general theme of increasing diversity at the Bar with examples given of existing initiatives to achieve this ie:
- mentoring schemes eg those run by the Judicial Appointments Commission;
  - targeted education outreach projects eg those run by the Kalisher Trust and the Inns of Court;
  - the BSB's reverse mentoring scheme.
20. Mark Fenhalls QC was invited to contribute, given the Bar Council's role in promoting diversity. He emphasised his desire to see chambers aspire to standards beyond those imposed by the regulator in terms of equality rules. He underlined the Bar Council's commitment to achieving greater diversity at the Bar and welcomed input from any stakeholder wishing to assist in this goal. Mark Neale agreed the need for a collaborative approach as BSB moved to clarify expectations of chambers and employers in their oversight of diversity and standards.
21. In response to a question about identifying and tackling barriers to inclusion, the following comments were made:
- the BSB has already contributed to some qualitative research on barriers to training for the Bar;
  - the authorisation process for pupillage specifically asks potential Authorised Education and Training Organisations (AETOs) about how it will address the principle of accessibility and gives examples of good practice.
22. **AGREED**  
to note the report.

**Item 9 – Independent Decision Making Body (IDB) Annual Report 2020-21**  
BSB 005 (22)

23. Iain Christie commented as follows:
- this is the IDB's second annual report but the first to cover a full 12-month period;
  - the pandemic meant that all Panel meetings and training events were conducted online but this did not prove problematic;
  - the period in question saw a rise in the number of cases both for enforcement and authorisation. There was a relatively low rate of challenge against IDB decisions (and even lower rate in terms of successful challenges);
  - a new Vice Chair was appointed during the period concerned following the departure of Cindy Butts, though the new postholder (Rohan Sivanandan) took up the role after March 2021 so does not co-author this report.
24. The Chair welcomed the report and thanked Iain and the IDB for their hard work in managing an increasing caseload. In response to a question raised about the *Eve* judgment, Iain Christie confirmed that the lessons learned report will be presented to the BSB's Governance, Risk and Audit Committee in February 2022.
25. **AGREED**  
to note the report.

**Item 10 – Governance, Risk & Audit (GRA) Committee Annual Report 2020-21**

BSB 006 (22)

26. Mark Neale highlighted the salient points of the GRA Committee's Annual Report ie
- its work on risk management, particularly the deep dive analyses it undertook on a number of subject areas;
  - its scrutiny of the lessons learned arising from the Huxley-Binns report on BSB online examinations;
  - its regular review of corporate risks selected from the risk register.

27. **AGREED**

to note the report.

**Item 11 – Director General's Strategic Update – public session**

BSB 007 (22)

28. Mark Neale outlined his report and supplemented this with an update on new guidance on sanctions. This comes into effect from January 2022 and follows a joint review with the Bar Tribunal and Adjudication Service (BTAS). The effect has been to strengthen sanctions, particularly in respect of harassment and sexual misconduct.
29. In respect of professional indemnity insurance cover for cyber related losses, Ewen Macleod explained that the proposals for change did not constitute a substantial shift in policy but a consultation process with stakeholders will still proceed.

30. **AGREED**

to note the report.

**Item 12 – Chair's report on visits and external meetings**

BSB 008 (22)

31. The Board **noted** the report.

**Item 13 – Any Other Business**

32. None.

**Item 14 – Dates of next meetings**

- 33.
- Tuesday 22 February 2022 (Board to Board meeting with LSB)
  - Thursday 31 March 2022 (ordinary Board meeting)

**Item 15 – Private Session**

34. The Board resolved to consider the following items in private session:
- (1) Approval of Part 2 (private) minutes – 23 September 2021 & 20 October 2021.
  - (2) Matters arising and action points – Part 2.
  - (3) Corporate Risk Report.
  - (4) Regulatory Performance (including update on *well-led* action plan).
  - (5) Future strategy and budget for 2022-23.
  - (6) Director General's Strategic Update – Private Session.
  - (7) Any other private business.
35. The meeting finished at 5.30 pm.