

BAR STANDARDS BOARD

REGULATING BARRISTERS

Part 1 - Public**Minutes of the Bar Standards Board meeting**

Thursday 30 January 2020, Rooms 1.4 - 1.7, First Floor,
Bar Standards Board Offices, 289-293 High Holborn, London, WC1V 7HZ

- Present:** Baroness Tessa Blackstone (Chair)
Naomi Ellenbogen QC (Vice Chair)
Alison Alden OBE
Lara Fielden
Steve Haines
Andrew Mitchell QC
Elizabeth Prochaska – *by telephone*
Irena Sabic
Nicola Sawford – *by telephone*
Adam Solomon QC
Kathryn Stone OBE
Leslie Thomas QC – items 6-12
Stephen Thornton CBE
- By invitation:** Amanda Pinto QC (Chair, Bar Council) – items 6-12
Derek Sweeting QC (Vice Chair, Bar Council)
Malcolm Cree CBE (Chief Executive, Bar Council)
- BSB Executive in attendance:** Ben Burns (Policy Manager, Equality and Access to Justice)
Vanessa Davies (Director General)
Rebecca Forbes (Head of Governance & Corporate Services)
Sara Jagger (Director of Legal and Enforcement)
Ewen Macleod (Director of Strategy and Policy)
John Picken (Governance Officer)
Amit Popat (Head of Equality and Access to Justice)
Andrew Lamberti (Communications Manager)
Wilf White (Director of Communications and Public Engagement)
Julia Witting (Head of Supervision)
- By invitation:** Mark Neale CB (Director General Designate) - observer
- Press:** Jemma Slingo (Law Society Gazette)

Item 1 – Welcome

1. The Chair welcomed Members and guests. She congratulated Amanda Pinto QC and Derek Sweeting QC on their respective appointments as Chair and Vice Chair of the Bar Council. She also introduced the incoming BSB Director General, Mark Neale, who begins his role on 3 February 2020.
2. She noted with regret that this was the last meeting for Vanessa Davies who stands down from the role of Director General on 31 January 2020. She thanked Vanessa on behalf of the Board for her tremendous contribution and wished her a healthy and happy retirement.

3. **Item 2 – Apologies**
- Grant Warnsby, Treasurer, Bar Council
 - James Wakefield, Director, COIC
 - Piran Dhillon-Starkings (Special Advisor to the Chair of the Bar Council)
 - Oliver Hanmer (Director of Regulatory Operations)
4. **Item 3 – Members’ interests and hospitality**
Vanessa Davies made a declaration of hospitality in respect of a lunch provided earlier in the day by the Bar Mutual Indemnity Fund (BMIF) for herself, Ewen Macleod and Mark Neale.
5. **Item 4 – Approval of Part 1 (public) minutes (Annex A)**
The Board approved the Part 1 (public) minutes of the meeting held on Thursday 31 October 2019.
6. **Item 5a – Matters arising and action points (Annex B)**
- (i) The Board **noted** the updates to the action list.
- (ii) **Paper circulated out of cycle: Barristers supervising immigration advisers BSB 045 (19)**
The Board formally ratified its decision taken out of cycle after the October meeting ie to **approve** a rule change to prevent barristers from supervising immigration advisers who are otherwise not entitled to practise due to a sanction by another regulatory body. **EM to note**
- (iii) In response to questions raised, Ewen Macleod confirmed that:
- guidance on the rule change will explain that barristers may need to make checks with other public bodies;
 - in the case of unregulated (rather than sanctioned) legal practitioners, a barrister’s obligation to keep their clients fully informed remains in force.
7. **Item 5b – Forward Agenda (Annex C)**
Members **noted** the forward agenda list.
8. **Item 6 – Annual Diversity Data Report BSB 001 (20)**
Amit Popat introduced the report and highlighted:
- the upward trend in disclosure rates, though for some protected characteristics, these remain below levels we would wish to see;
 - our recent discussions with other regulators and representative bodies within the Bar on how to improve disclosure rates;
 - that a draft of the new Equality Strategy will be presented to the Board in March 2020.
9. Members commented as follows:
- in future, we might revisit how gender related questions are phrased and focus on the intersection between protected characteristics eg ethnicity and gender;
 - the Bar Council has a key role in promoting diversity at the Bar and we should continue to work with it on this issue;
 - we need to have disclosure rates that are sufficiently high so that benchmarks with national data are valid. Otherwise we risk making incorrect assumptions.
10. The Board discussed the issue of disclosure rates in depth. Members agreed that reliable conclusions cannot be drawn where rates remain low. We therefore need to consider this when developing our long term strategy. Several opinions were expressed ie it is likely that:

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- some individuals find diversity questions overly intrusive and will not respond on principle;
 - some might perceive the survey as an implied criticism, because their own set of chambers is not diverse;
 - we need to better understand the reasons for non-disclosure. It may be worth contacting the Specialist Bar Associations directly on this point;
 - we should adopt a positive message in explaining why better quality data helps us to fulfil our regulatory role. We need to incentivise and motivate if we are to improve disclosure rates and working with our partners, particularly the Bar Council, will help in this endeavour.
11. In respect of the above, the following points were made:
- some surveys include space for respondents to explain why they do not wish to disclose data;
 - the Bar Council is willing to share aggregate data with the BSB from the pupillage gateway. Its forthcoming Barristers' Working Lives survey will include some equality related questions from the BSB;
 - diversity is a central theme of Amanda Pinto QC's year as Bar Council Chair.
12. **AGREED**
to note the report and publish it on the BSB website.
- Item 7 – Annual Enforcement Report 2018/19**
13. BSB 002 (20)
Sara Jagger introduced the report and summarised its content. In overall terms, performance has improved in some areas but declined in others, largely due to pressure on staff resources.
14. In response to questions from Members, the following comments were made:
- the 2019/20 enforcement report will compare two groups of six-monthly statistics (one for the old enforcement system and another for its replacement);
 - delays at Tribunal level often relate to the ill health of one of the parties concerned. There is little that the BSB can do to expedite matters in these circumstances;
 - we shall work in partnership with Law for Life (a public legal education charity) to extend and improve the information available on our website to litigants-in-person (LiPs). By giving better advice on what does (and does not) constitute a breach of the Handbook, we hope to reverse the rise in the number of unsubstantiated complaints.
15. The following comments were made:
- we should take positive action to advance understanding of our role so the work to improve the website is welcome. That said, some LiPs react at an emotional level and may wish to take action regardless of the circumstances of the case;
 - we must use objective language in our correspondence – in one instance a letter to a LiP expressed regret at not being able to pursue a case, even though no breach had occurred. This is unfair to the barrister concerned;
 - we need to keep an overall sense of proportion about this issue. The number of complaints from LiPs in England and Wales for 2018/19 was just 95 in total.
16. **AGREED**
to note the report.

AP to
note

Item 8 – Mandating the timetable for pupillage recruitment

17. BSB 003 (20)
Julia Witting explained the proposal for a common timetable for the recruitment of pupils. The aim is to make the process fairer for all concerned and follows extensive stakeholder engagement.
18. Andrew Mitchell QC referred to the statement that all offers of pupillage must be made on the same day. He welcomed this but suggested more needs to be done to prevent chambers making informal approaches to pupils prior to this date.
19. **AGREED**
to approve the proposal to mandate a common timetable for recruiting pupils and to include an instruction in associated guidance material which deters chambers from making informal offers in advance of the prescribed date. **JW**

Item 9 – Chair’s report on visits and external meetings from November 2019- January 2020

20. BSB 004 (20)
The Board **noted** the report.

Item 10 – Any Other Business

21. None.

Item 11 – Date of next meeting

22. • Thursday 19 March 2020.

Item 12 – Private Session

23. The following motion, proposed by the Chair and duly seconded, was agreed.
That the BSB will go into private session to consider the next items of business:
- (1) Approval of Part 2 (private) minutes – 31 October 2019;
 - (2) Matters arising and action points – Part 2;
 - (3) Corporate Risk Report;
 - (4) Strategic update from the Director General / DG Designate;
 - (5) Any other private business.
24. The meeting finished at 5.45 pm.