

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 23 September 2021, 5.00 pm

(Hybrid meeting - in person and online)

**Rooms LG1-2, Basement Floor, Bar Standards Board Offices,
289-293 High Holborn, London, WC1V 7HZ and 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			
	• 27 May 2021	Annex A	Chair	3-6
5.	a) Matters arising & action list	Annex B	Chair	7
	b) Forward agenda	Annex C	Chair	9
6.	Consulting the public and the profession about the BSB's strategy for the next three years (5.05 pm)	BSB 033 (21)	Ewen Macleod	11-19
7.	Director General's Strategic Update- Public Session (5.25 pm)	BSB 034 (21)	Mark Neale	21-54
8.	Chair's Report on Visits & External Meetings (*)	BSB 035 (21)	Chair	55
9.	Any other business (5.35 pm)		Chair	
10.	Date of next meeting			
	• Thursday 25 November 2021			
11.	Private Session			

John Picken
Governance Officer
16 September 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.*

BSB 230921

<p style="text-align: center;">BAR STANDARDS BOARD</p>
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REGULATING BARRISTERS

Part 1 - Public**Minutes of the Bar Standards Board meeting****Thursday 27 May 2021 (5.00 pm)****Hybrid Meeting (Rooms 1.4-1.7 & MS Teams)**

- Present:** Baroness Tessa Blackstone (Chair)
 Alison Allden OBE – *via Teams*
 Lara Fielden – *via Teams*
 Steve Haines – *via Teams*
 Andrew Mitchell QC – *via Teams*
 Elizabeth Prochaska – *via Teams*
 Irena Sabic – *via Teams*
 Nicola Sawford
 Adam Solomon QC – *via Teams*
 Kathryn Stone OBE – *via Teams*
 Stephen Thornton CBE – *via Teams*
- By invitation:** Derek Sweeting QC (Chair, Bar Council) – *via Teams*
 Lorinda Long (Treasurer, Bar Council) – *via Teams*
 Malcolm Cree CBE (Chief Executive, Bar Council) – *via Teams*
 Adrian McCarthy (Independent Audit)
 Susan Stenson (Independent Audit) – *via Teams*
- BSB & RG Executive in attendance:** David Adams (Corporate Services Manager) – *via Teams*
 Rebecca Forbes (Head of Governance & Corporate Services)
 Laura Fox (Senior Media and Stakeholder Relations Officer) – *via Teams*
 Oliver Hanmer (Director of Regulatory Operations) – *via Teams*
 Teresa Haskins (Head of People, BSB)
 Sara Jagger (Director of Legal & Enforcement) – *via Teams*
 Andrew Lamberti (Communications Manager) – *via Teams*
 Ewen Macleod (Director of Strategy & Policy)
 Mark Neale (Director General)
 John Picken (Governance Officer)
 Wilf White (Director of Communications & Public Engagement)
- Press:** Neil Rose, Legal Futures – *via Teams*
 Jemma Slingo, Law Society Gazette – *via Teams*

Item 1 – Welcome / Announcements

1. The Chair welcomed those present to the meeting.

Item 2 – Apologies

- Leslie Thomas QC

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 18 March 2021.

Item 5a – Matters arising & action list

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

Item 5b – Forward agenda

6. The Board **noted** the forward agenda list.

Item 6 – Strategic Planning and Resources (SPR) Committee Annual Report 2020/21
BSB 022 (21)

7. Steve Haines summarised the main points from the SPR Committee's Annual Report. In respect of performance monitoring, he emphasised that the Board had only ever delegated this task to the Committee but had not relinquished its oversight. It retained overall responsibility for monitoring performance and took back direct control following an amendment to the Committee's Terms of Reference last year.
8. He also endorsed a comment from Stephen Thornton who expressed his appreciation of the Executive's collaborative approach and the improvement to Committee papers.
9. **AGREED**
to note the report.

Item 7 – Amendment to Standing Orders

BSB 023 (21)

10. Rebecca Forbes explained the reasons for the proposed amendments ie:
- clarification of the Terms of Reference of the BSB Remuneration Panel;
 - enabling the BSB Chair to make temporary appointments to the Independent Decision Making Body (IDB) should all current members be conflicted for a particular case.
11. In response to a question about recruitment, she said we would call on former members of the BSB's Professional Conduct Committee in the first instance. She also agreed to a suggestion from Lara Fielden to consider existing members of the Bar Tribunal Adjudication Service (BTAS), providing those selected were then precluded from sitting on any associated Tribunal.
12. **AGREED**
- a) to approve with immediate effect a revision to the BSB Standing Orders (January 2021) in respect of:
 - changes to the Terms of Reference of the BSB's Remuneration Panel; and
 - changes to the powers of the BSB Chair to temporarily appoint members of an IDB Panel when all existing members are conflicted.
 - b) to endorse the suggestion of using existing BTAS Members as temporary recruits for the Independent Decision Making Body, should that need arise (cf. min 11).

**RF
to
note****Item 8 – Communications and Public Engagement and Public Legal Education report**
BSB 024 (21)

13. Wilf White invited the Board to review performance against the BSB's Communications and Public Engagement (CPE) strategy, which also includes activity around public legal education (PLE). He highlighted the following:
- the challenges around the August examinations and negative press stories concerning the perceived leniency, in some cases, of sanctions imposed by Tribunals;
 - improvements to the BSB's website and the high "open rate" for the BSB's Regulatory Update to the profession;
 - our support for frontline charities and other consumer-facing organisations in helping those in legal need with access to relevant information;
 - ongoing efforts to improve communication with students.

Part 1 - Public

14. Members commented that:
- we should increase our use of digital events to encourage and broaden participation with stakeholders;
 - we should include solicitors and in-house counsel in our target groups;
 - it would help to understand timelines around the planned review of the BSB's intranet.
15. In response Wilf White commented that:
- the BSB will use more digital events in future though, sometimes, the technology itself can prove unreliable;
 - the SMT has already recognised a need for closer liaison with solicitors, given they are the main referral agents for barristers;
 - a project to create a BSB specific intranet will involve input from our shared Information Services Department. A completion date by the end of the current year may be feasible, though this is still tentative given the involvement of Information Services staff in other ongoing projects.
16. The Chair endorsed the planned activity to strengthen links with the Federation of Small Businesses and the Small Business Commissioner. Those running small businesses may often be litigants in person and so need support from our partner bodies eg Law for Life. Mark Neale confirmed that a meeting with the Small Business Commissioner had already taken place.
17. In response to questions about public legal education, Wilf White stated that:
- we base funding decisions on whether the partner in question is providing services that match our own criteria for supporting vulnerable groups. The sums in question are proportionate to the outreach achieved;
 - we consider that outreach projects are likely to be the most effective. In supporting individuals who work directly with many clients, we benefit from a multiplier effect that adds to overall impact;
 - the programmes we are currently supporting are listed in the paper. We will review this again in Autumn this year;
 - we are still willing to work with other regulators to establish a common strategy around PLE but have yet to make further progress with our preferred option of a frontline regulators' consumer information forum.
18. **AGREED**
to note the report and the associated performance metrics.

Item 9 – Director General's Strategic Update – Public Session
BSB 013 (21)

19. Mark Neale summarised his report. The salient points were:
- the report includes a new analysis of the throughput of regulatory work (volumes of incoming work, stocks of casework in hand and completed cases);
 - this shows improvements in productivity and a reduction in backlogs. The Independent Reviewer has confirmed that the quality of decision making by BSB staff remains high.
20. In response to questions raised, the Executive commented that:
- the increased number of reports received by the Contact and Assessment Team was due to:
 - ❖ the spike in reports about Government Law Officers' involvement in the Internal Market Bill;
 - ❖ an easier means of sending reports to the Contact and Assessment Team following improvements to our website.
 - we appointed IRN to conduct research on the Code of Conduct review. The report should be published in July 2021. A range of different clients and practice areas will be surveyed, including referral and direct access clients;

Part 1 - Public

- BSB is taking part in the SRA led pilot on quality indicators for employment law practitioners. The aim is to provide a reliable comparison tool for clients;
- we do not expect to meet our KPI targets until later this financial year. They are a relatively crude measure of performance insofar as these figures are always affected by existing cases that have already exceeded the KPI limit. Until these older cases are closed, the performance statistics will not improve in overall terms, even though newer cases may be managed within the target timeframes. We shall share with the Board milestones for achieving service levels in the different categories of regulatory work;
- we have increased our staffing in the Authorisations Team but the full effect of this will only become apparent over time. Our priority has been to reduce the backlog and we have achieved notable progress in this respect;
- we are now categorising cases that require formal investigation based on complexity. This will give the Board a richer picture of case management information. We are still experiencing more legal challenges from those subject to investigation and this adds to delay;
- the independent report on the August examinations received wide coverage in the press but in a balanced and fair way and made clear we are acting on its recommendations. We are already in contact with the Inns and course providers about this and have established a Steering Group to oversee implementation of the recommendations.

21. In accepting the explanation about missed KPIs, the Chair nevertheless emphasised the need for improvement. She recognised the damaging effect of delays to investigations so welcomed efforts to identify and resolve bottlenecks.

22. **AGREED**
to note the report.

Item 10 – Chair’s report on visits and external meetings

BSB 014 (21)

23. The Board **noted** the report.

Item 11 – Any Other Business

24. The Chair noted with regret that Nicola Sawford’s second term of office ends on 31 August 2021. This was, therefore, her last public meeting as a BSB Board Member. On behalf of the Board, she expressed her sincere thanks to Nicola for her tremendous contribution over the past six years, including her role as Chair of the Governance, Risk and Audit Committee.

Item 12– Dates of next meetings

25. • Thursday 15 July 2021 (Board Away Day – 10am – 5.30 pm);
 • Thursday 23 September 2021 (Board to Board meeting with OLC – 3.30pm);
 • Thursday 23 September 2021 (ordinary Board meeting – 5.00pm).
Note: the Board later resolved to hold an additional private meeting on 9 June 2021.

Item 13 – Private Session

26. The Board resolved to consider the following items in private session:
- (1) Approval of Part 2 (private) minutes – 30 March 2021 & 30 April 2021.
 - (2) Matters arising and action points – Part 2.
 - (3) Corporate Risk Report.
 - (4) The Professional Ethics assessment during pupillage / work based learning.
 - (5) Fees for Chair of the BSB’s Committees.
 - (6) Director General’s Strategic Update (private session).
 - (7) Any other private business.

27. The meeting finished at 5.50 pm.

BSB – List of Part 1 Actions

23 September 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
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 	Shadae Cazeau / Meera Roy-Chowdhury	before 11 March 2021 before end Nov 2021	13/09/21	Part completed – Next steps for the Reverse Mentoring Scheme are currently being considered by the E&AJ Programme Board. An external party has been confirmed to facilitate internal BSB focus groups for minority ethnic employees, in response to the staff survey – these and a summary report are due to be completed by early November.
				24/06/21	Part Completed – Training for Board members has been delivered by the Head of E&AJ. The regulatory return has begun to capture information of implementation of the race equality statement. Further work in relation to the development of a potential kitemark will continue with the BC. As the Head of E&AJ has left the BSB, Mark Neale has taken over as Chair of the Race TF.
				10/03/21	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.
				20/01/21	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.

Forward Agenda**Thursday 25 November 2021**

- IDB Annual Report
- Regulatory Decisions Annual Report 2020-21
- Mid-year financial report (2021-22)
- GRA Annual Report
- Corporate Risk Report (summary)
- Director General's Strategic Update (incl Q2 performance report)
- Update on action plan re: LSB's "well-led" report
- Regulatory Return – full report
- High Court judgment - Eve v BSB

Thursday 27 January 2022

- Policies on Interests, and Gifts and Hospitality
- Director General's Strategic Update
- LSB's assessment of BSB's performance against its Regulatory Performance Assessment Framework
- Review of BCAT
- Update on action plan re: LSB's "well-led" report

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)
- Review of the consumer engagement strategy
- Update on action plan re: LSB's "well-led" report

Meeting:	Bar Standards Board	Date:	23 September 2021
Title:	Consulting the public and the profession about the BSB's strategy for the next three years		
Author:	Ewen Macleod		
Post:	Director of Strategy and Policy		

Paper for:	Decision: <input checked="" type="checkbox"/>	Discussion <input 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**

☐ Paper does not principally relate to Regulatory Objectives

Recommendation(s)

The Board is asked to approve the attached consultation document, which will be used as the basis for engaging with stakeholders on our new strategy.

Executive Summary

The Board is asked to approve a short consultation document to gauge stakeholder views on the priorities for its next Strategic Plan. The paper reflects comments from the Strategic Planning and Resources Committee and a desire to produce a shorter document that might form the basis of more effective engagement than previous strategy consultations. It will be supplemented by a programme of communications and meetings tailored to our various key stakeholders.

Risk

The new strategy will be key to addressing all regulatory risks that have been identified as priorities across all regulatory objectives. As we want to keep the consultation short, we have decided not to publish a separate, detailed 'Risk Outlook' as our past experience suggests that this would not generate much engagement. We have instead sought to summarise the key regulatory risks in the consultation document.

Resources (Finance, IT, HR)

The Board will be asked to consider a budget bid separately. In addition to this consultation, there will be a separate consultation on the proposed Practising Certificate Fee.

Equality & Diversity

Our equality and diversity responsibilities have been central to our prioritisation and this is reflected in the consultation document. We will separately consult stakeholders with an interest in equality and diversity, as discussed in the paper.

Consulting the public and the profession about the BSB's strategy for the next three years

Background

1. We are about to start engaging stakeholders in relation to our next Strategic Plan, for 2022-25. Traditional methods of engagement – a detailed consultation document followed up by invitations to a meeting to discuss it – got a very poor response last time. The Strategic Planning and Resources Committee discussed how we might approach this consultation and agreed the key, high-level messages.
2. In the light of this, we suggest:
 - A much shorter consultation and questionnaire;
 - Promoting that questionnaire via Regulatory Update, social media, direct mailings to key members of the profession and the Consumer Pool etc.;
 - Offering a video summary of the strategy which can also be promoted to the same audiences and via the same media; and
 - Targeted outreach work, tailored to key stakeholders, particularly seeking views from the circuits, consumer groups and others, such as the judiciary. We hope that some of this can be undertaken in person, but we will make arrangements to do so online where appropriate.
3. There will be a separate consultation on the Practising Certificate Fee, which is expected to start early November. This consultation will launch at the beginning of October, if approved by the Board.

Other engagement activity

4. This paper highlights the importance of the diversity and inclusion agenda. Alongside the strategic plan consultation, we will also be engaging stakeholders on our next equality objectives, to meet our duties under the Equality Act. We believe that this needs some separate, targeted engagement activity. It is especially true that we cannot achieve our objectives in this area without collaboration with others: indeed, there might be strong arguments for the BSB collaborating with others (such as the Bar Council, the Circuits or the Inns) in order to build a sense of ownership and commitment in the profession. We therefore want to bring stakeholders together to agree some shared objectives that we might collectively work towards (with the BSB focusing on regulatory action in support of those objectives.)
5. Examples of high-level outcomes might include (as a very first draft, and subject to discussion with others):
 - The profession has an inclusive culture that enables it to mirror the society it represents at all levels of seniority;
 - The profession is equipped to engage with the diverse needs of its clients;
 - Rules and processes that contribute to the qualification, ongoing training and regulation of barristers are fair and treat all equally; and
 - An evidence base exists to enable continuous learning and improvement towards these outcomes.
6. We will also consider how we might better work together to promote ownership across the profession, to monitor progress and assess impact.

THE BSB'S STRATEGY FOR 2022-25

The BSB has clear statutory objectives which are set out in the Legal Services Act 2007. They are:

- 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; and
- promoting and maintaining adherence to the professional principles.

Our strategy therefore seeks to be driven by a clear vision of the role of regulation in improving outcomes for consumers, in supporting the administration of justice and in strengthening the profession itself. We have therefore started by considering the risks and opportunities in the market for barristers' services that affect our ability to meet our regulatory objectives.

Risks and opportunities

Our research suggests that some of the main areas of challenge and opportunity facing the market for barristers' services and the delivery of our statutory regulatory objectives are:

- *The ongoing impact of the pandemic including its accelerating effect on court reform and the increase in remote hearings and remote working.*¹
Evidence from the regulatory return shows that many chambers have set themselves up to deal with remote working, while some chambers have responded well to clients' concerns and have supported hybrid hearings by bringing clients without digital access into chambers. However, concerns remain that some vulnerable clients find the online experience leaves them feeling removed or isolated from the process.²
- *Continuing pressures on public funding and the need for innovative solutions to meet consumer demand.*
Technology and innovation have an important role in helping to deliver our regulatory objectives, especially around improving access to justice, and helping to deliver transparency for consumers to navigate legal services. But we must not lose sight of the needs of vulnerable people and the digitally excluded for whom new technology may not improve access to justice.
- *The need for barristers to be supported in maintaining and developing a range of skills, knowledge and competences.*
Decentralisation largely places the burden on individual barristers to identify if they require support or training, for example to adapt their advocacy to remote hearings and to support vulnerable witnesses.
- *The continuing need to improve the culture at the Bar, tackling discriminatory practice in all its forms and ensuring a supportive environment for all barristers and pupils.*

¹ The House of Lords Select Committee on the Constitution: COVID-19 and the Courts Published 31 March 2021 <https://publications.parliament.uk/pa/ld5801/ldselect/ldconst/257/25702.htm>

² Nuffield Family Justice Observatory, <https://www.nuffieldfjo.org.uk/wp-content/uploads/2021/07/remote-hearings-in-the-family-court-post-pandemic-report-0721.pdf>

There is a significant amount of evidence³ telling us that bullying, discrimination and harassment have been experienced by many at the Bar. Barristers who are female, from a minority ethnic background, LGBT+ or who have a disability are particularly likely to encounter such behaviour. Discrimination can arise in many forms, and may be unintentional. It can in particular occur during the recruitment and training of pupils and in the allocation of work. Culture and working practices can perpetuate these issues. It is clear, therefore, that chambers have a significant role to play in helping us to deliver our vision of a Bar that is diverse, accessible, independent, knowledgeable, skilled and inclusive.

If we consider the need for a skilled Bar, it is also important to think about how decentralisation largely places the burden on individual barristers to identify if they require support or training, for example to adapt their advocacy to remote hearings and to support vulnerable witnesses.

Indeed, we believe that chambers have an important role to play as an intermediary across the work of the Bar, as a support for individual barristers and as a means of organising barristers' practices. In particular, chambers have an important role to play in:

- mediating feedback to individual barristers from judges, solicitors and consumers on their professional competence
 - supporting pupils and junior barristers
 - tackling discriminatory practices in recruitment and the allocation of work
 - addressing concerns about bullying and harassment.
 - Supporting barristers in maintaining and developing a range of skills, knowledge and competences.
- *The sustainability and resilience of the Bar to meet demand*
Research shows that the Bar is ageing⁴ which, along with evidence of a reduction in pupillage numbers⁵, could create real challenges in terms of future barrister provision and an exacerbation of access to justice concerns for consumers. The problems are likely to be hardest felt within the publicly funded Bar but could also unevenly affect female pupils and barristers, and those from minority ethnic backgrounds, which could in turn effect our aim of achieving a more diverse Bar.
- *The continuing need to support improvement in consumer education in navigating legal services:*
Although there is now greater price transparency, individuals and businesses with legal problems usually have a poor understanding of the full range of services offered by barristers, particularly the scope to access barristers' services directly, the potential to unbundle services. Consumers may also be daunted by the prospect of contacting chambers.⁶ Where individuals and businesses are referred to barristers by solicitors or other legal professionals, our evidence is that they are often offered no choice. In relation to disruptive technology, delivering any possible benefits to consumers generally can be problematic, given the take-up of innovative technology, including artificial intelligence, depends largely on the initiative of individual barristers or chambers.

³ YouGov Research <https://www.barstandardsboard.org.uk/uploads/assets/896b55e0-72b2-4388-be291617735b8a25/ea23e7ad-cc4a-438f-b50d6929f2001c5d/October-2020-BDH-at-the-Bar-full-report.pdf>

⁴ BSB Research <https://www.barstandardsboard.org.uk/uploads/assets/12aaca1f-4d21-4f5a-b213641c63dae406/Trends-in-demographics-and-retention-at-the-Bar-1990-2020-Full-version.pdf>

⁵ BSB Research <https://www.barstandardsboard.org.uk/uploads/assets/3330b2d0-5190-434b-900a893947c33522/Pupillage-Covid19-impact-report-Feb-2021.pdf>

⁶ CMA Transparency Review <https://www.gov.uk/cma-cases/review-of-the-legal-services-market-study-in-england-and-wales#review-report>

Q1: Do you agree that these are the main challenges facing the market for barristers' services: is there anything you would add or omit?

Our vision

We suggest that our statement of our vision should be as follows:

We will ensure that the Bar and the BSB deliver diversity, high standards, and promote the public interest

If we successfully achieve this, we would expect to see a market for barristers' services where:

- barristers provide a range of good value legal services which are well-understood by, and accessible to, consumers;
- the quality of legal advice and of customer service is consistently high;
- barristers' duties to the Court, to their clients and to the rule of law are upheld; and
- the profession itself reflects the society it serves, works to eliminate all forms of bullying, discrimination and harassment and maintains its independence and cohesion.

We know we cannot achieve this by ourselves and will need to do this work in collaboration with others (indeed, the lead might be taken on some work by others.) Our purpose at this stage is to understand whether this is the right vision and the extent to which it is shared by others. Where that is the case, we want to understand what other organisations are doing and whether we can collaborate more effectively to achieve our shared vision.

Q2: Do you agree with this vision for the BSB and the Bar: is there anything you would add or omit?

Priorities for the BSB over the next three years

A number of activities from our current strategic plan will continue into the next period. These include, for example, our work on assuring competence, equality and diversity, greater transparency for consumers and updating the Handbook. These continue to be compatible with the priorities that are identified in this paper.

The challenges and opportunities set out above suggest that our priorities for the next three years should be as follows:

Providing consumers with confidence in using barrister services

- defining and enforcing standards of professional conduct and ensuring that reports about the conduct of barristers are handled swiftly and efficiently
- setting and overseeing the training requirements for barristers and ensuring that authorisations and requests for waivers are dealt with swiftly and efficiently

Maintaining and improving access to justice

- ensuring that new barristers join the profession in sufficient numbers to meet the future demand for barristers' services both across the profession as a whole and in discrete specialisms, including the publicly funded Bar, and that new recruits are drawn from diverse backgrounds to reflect the society they serve.
- ensuring that individuals and small businesses and the organisations advising them have a good understanding of the services barristers can provide
- working with other regulators and frontline advice providers to ensure that the public have a better understanding of their legal rights and duties, the legal services market and how to access legal advice. Building a better understanding of how solicitors choose barristers on behalf of their clients

Enabling the benefits and mitigating the risks of innovation and technology

- ensuring that barristers are trained to use technology effectively and, in particular, understand its implications for vulnerable clients and participants in the administration of justice.
- bring ready to regulate the use of technology where necessary to protect the public interest while ensuring we do not create barriers to innovation particularly that which allows greater access to legal services.

Promoting best practice in chambers' oversight of standards and diversity

- working with chambers and others in the profession to promote best practice in: meeting consumers' interests; upholding standards and assuring competence; developing barristers; supporting remote working; and promoting diversity.

Q3: Do you agree that these should be the BSB's priorities: is there anything you would add or omit and how would you rank the priorities?

Developing our capacity and capability

We have taken the opportunity to review our capacity and capability needs because much has changed over the course of the health emergency - volumes of core regulatory work have risen sharply⁷ and new strategic challenges have emerged. We are currently missing our service levels in turning around requests for authorisations, in handling reports of alleged professional misconduct and in taking forward investigations. Those seeking authorisations or those making, or being the subject of, reports deserve a faster service. Our guiding purpose in setting out our organisational development needs is that the Bar Standards Board should regulate the Bar efficiently and effectively in the public interest, maintaining high standards, promoting diversity and furthering the interests of consumers. To deliver this, the Bar Standards Board must be able to:

- discharge efficiently, effectively and inclusively our own core functions of handling reports on barristers, supervising barristers and their chambers, setting and administering standards of qualification; and taking forward investigations and disciplinary cases;
- engage confidently and independently with consumers, the profession and other external stakeholders;
- bring to bear high order research and analytical skills; and
- recruit, develop and engage people with the skills, experience and confidence to do these things well.

Therefore, to deliver our strategy we believe that we will need to:

- enhance our core operational professionalism and resilience in managing flows of work and in investing in and designing our processes to secure improvements in efficiency, in effectiveness and in customer service;
- strengthen our ability to reach out and to engage with chambers, the profession and the public so that we can identify and promote good practice in the way the profession operates to provide effective services, sustain high professional standards, to develop barristers and to ensure diversity;
- improve and deepen the intelligence we have and our research evidence bearing on professional competence, standards of service and the operation of the market for barristers' services;
- enhance our understanding of consumers' needs and experience in using barristers' services;
- increase capacity to support our people in developing the skills and capabilities they need both to deliver current and future organisational goals as well as develop their own careers;

⁷ In the first quarter of 2021/22 reports on barristers were running at four times the level of the first quarter of the previous year; applications for authorisation were also on a rising trend in 2020/21

The BSB is already independent of the Bar Council in its decision-making but we think that it may help to ensure that we are seen as having a distinct and independent identity if we were to be a separate corporate body, with the link to the Bar Council maintained through ownership of the corporate entity rather than, as now, through a confusing joint, but segregated, enterprise model. At the moment, we are undecided but think it is important that we explore this option.

Q4: Do you agree that these are the key areas where the BSB needs to develop as an organisation?

Collaboration

As we have noted above, we will not deliver our vision and priorities without collaboration with others. We welcome views on how we might better do that.

Q5: Are there any particular areas on which we might collaborate with you or with others to further the priorities set out above?

Bar Standards Board – Director General’s Strategic Update – 23 September 2021**Public session****Performance**

1. I attach – annex A - the dashboard summarising the performance of the BSB in the first quarter of 2021/22 and the supporting report on our progress in delivering the service levels governing our core regulatory work. This analysis of performance provides useful background to the paper – for private discussion – analysing the capabilities we shall need to deliver our strategy to the middle of the decade and, accordingly, the provision we need to make in our budget for 2022/23. It includes, for the first time, information about the performance of the Supervision Team.

Core regulatory work

2. Taking first our performance in delivering core regulatory functions, the report shows that the quality of decision-making remains high – as attested to by the Independent Reviewer – but we continue to fall short in meeting the service levels for turning round reports, authorisations and investigations. Our commitment is, however, to meet these service levels by the fourth quarter of 2021/22 and there is evidence of progress in doing so.
 - Productivity in assessing reports on barristers remains high and well above the levels achieved in the first three quarters of the previous year, although the volume of reports also continues to rise and reached a new high in the first quarter of this year when we received over 800 reports – roughly four times the level of the first quarter of last year.
 - Productivity in dealing with applications for authorisation is also at the highest level since the 2019 re-organisation. Good progress has been made, in particular, in tackling the backlog of overdue cases, with over 160 cases outside the 12 week target cleared in the first quarter of this year. The effect of clearing large numbers of overdue cases is, of course, to depress the Key Performance Indicator which measures the proportion of cases completed over a quarter within the service level.
 - The process for referring cases to investigation is now moving more quickly, but investigations themselves – though continuing to move forward – are taking on average longer than provided for in the service level. This reflects the continuing lack of resilience in the responsible team as we struggle to fill vacant posts and to deal with unexpected departures.
3. We are, of course, continuing to look for ways of improving the efficiency with which we handle our core regulatory work consistent with maintaining high standards of decision-making. It is striking, for example, that, although the volume of reports is rising, the number of cases referred for investigation is not. That implies that we are receiving more unwarranted reports. More effective triaging of in-coming reports may help to weed these out at an early stage. Equally, we frequently see cases, often in the public eye, which attract a multitude of reports from different sources. By dealing promptly with such cases, we can both demonstrate our effectiveness and also improve our service levels. All of these issues will be looked at in greater depth by the forthcoming review of regulatory operations.

Delivery of Business Plan

4. As the dashboard shows, we judge that we are still mostly on course to deliver the specific projects foreshadowed in the 2021/22 Business Plan, although we have necessarily adjusted some timescales in response to the departure of key colleagues and in response to other pressures. Notwithstanding these adjustments, we have already achieved a good deal in the first half of the year, including:
- taking forward, with the Bar Tribunal and Adjudication service, the review of, and consultation on, the Sanctions Guidance;
 - completing our project, with other stakeholders, on Coroners' Courts which will shortly see the publication of competencies for barristers and other legal professionals working in these courts – see paragraphs 11-13 below;
 - publishing important research on consumers' experience of using barristers and on recruitment and retention at the Bar since the 1990s; and
 - launching a consultation on the future of the Bar Course Aptitude Test – see paragraph 10.
5. The departure of the Head of the Equality and Access to Justice Team has inevitably had some impact on momentum in delivering some of our work in this front. However, the Equality and Access to Justice Programme Board has prioritised appropriately and we are on track to deliver the Equality Strategy by the end of the year. As we indicated in the business plan, the redrafting of the equality rules has been paused until capacity permits, although we have completed the stakeholder engagement on this project and an updated equality impact assessment will be available shortly. The new Head of Equality and Access to Justice is now in post.

Internal Governance Rules

6. The Senior Management Team has reviewed the operation of the Internal Governance Rules one year on from compliance but advises that it would be premature to make changes now to the arrangements for sharing services with the Bar Council put in place last year. Those arrangements are still bedding in and, like the rest of the BSB, have had to adapt to the unique challenges of the health emergency. We have considered whether the current arrangements for separation and regulatory independence are as effective as is reasonably practicable. We can confirm that during the first year of operation the current arrangements have not impaired the independence of BSB's decision-making. We recommend that we undertake an in-depth review of the arrangements in 2022/23 when they will have been in operation for two years and then to consider how far the current arrangements support effective governance, operational freedom and the BSB's distinctive identity and culture.

Supply of barristers: Criminal Legal Aid Review

7. We have continued to engage with stakeholders on both the short-term implications of the health emergency for pupillage numbers and on the longer-term implications for access to justice of the patterns of recruitment and retention revealed by the longitudinal research we published in July¹. I brought some of this work together in a submission to Sir Christopher Bellamy's review of criminal legal aid. My letter and supporting evidence is attached at annex B.

¹ <https://www.barstandardsboard.org.uk/uploads/assets/12aaca1f-4d21-4f5a-b213641c63dae406/Trends-in-demographics-and-retention-at-the-Bar-1990-2020-Full-version.pdf>

Market transparency: Public Legal Education

8. At the instigation of the Legal Services Board, the legal services regulators have established a new cross-cutting group – the Market Transparency Co-ordination and Oversight Group – to take forward implementation of the Competition and Markets Authority’s recommendations in its December 2020 report on the sector. The Group is chaired by the Legal Services Board and has now met twice.
9. At the most recent meeting, I once again canvassed the case for developing a cross-cutting strategy on public legal education which goes beyond the provision of information through the *Legal Choices* website and offered that BSB would take the lead in coordinating such a strategy. I have since exchanged letters with Matthew Hill last month – annex C. The exchange paves the way for this initiative to get off the ground. We plan to convene the legal services regulators and key third sector organisations this month or next.

Assessment of ethics in pupillage

10. The new Bar training rules require that those who commenced training for the Bar from 2020 must take a Bar Standards Board (BSB) exam in Professional Ethics if, after their vocational training, they then go on to pupillage. We announced on 11 August² that we would postpone the first assessment of ethics in pupillage from January 2022 to April of that year (with further sittings in July and October for any unsuccessful candidates.) This reflected consultation with the profession. The short delay will enable pupils required to take the assessment to take advantage, if they wish, of study materials which the Inns of Court College of Advocacy which make available in February 2022.

Bar Course Aptitude Test (BCAT) consultation

11. Following the Board discussion in March, we have now initiated a consultation on the future of the BCAT³. We shall report the results of the consultation to the Board in the New Year, with advice, in the light of responses, about whether the BCAT should be retained, amended, or withdrawn.

Assuring Competence update: Coroners’ Courts

12. The Board will recall that we have been looking at ways in which we can improve standards of practice in the Coroner’s Court, in the light of independent reports⁴ which raised concerns about standards of advocacy and behaviours by lawyers. The reports highlighted the adversarial approach taken by some lawyers which can lead to hostile and insensitive questioning of family members, other Interested Persons and witnesses.

² <https://www.barstandardsboard.org.uk/resources/press-releases/announcement-regarding-the-2022-pupillage-bsb-professional-ethics-exam.html>

³ <https://www.barstandardsboard.org.uk/resources/press-releases/bsb-launches-consultation-on-the-future-of-the-bar-course-aptitude-test-bcat.html>

⁴ Bishop James Jones report into the experience of families involved in the Hillsborough Inquiry, report by Dame Elish Angiolini into deaths and serious incidents in custody

Part 1 - Public

13. We have worked over the last 18 months with the Chief Coroner's Office, the Deputy Chief Coroner, the SRA and CILEx Regulation, practitioners, organisations supporting bereaved families and family members with experience of the Coroner's Court, to develop a set of competences which set out what good practice in the Coroners' Courts looks like. These competences build upon the BSB's Professional Statement and the SRA's Statement of Competence. In addition to the competences, we have developed a set of resources, including talking head videos – one of which by Leslie Thomas QC – which bring to life the key messages. The [resources](#) which were published on 13 September are hosted on each of the regulators' websites and will be useful for practitioners and members of the public alike. In order to improve our understanding of who undertakes Coroner's Court work, barristers will also be required to declare if they work in this area at the annual authorisation to practise.
14. As part of the evaluation of the impact of the new arrangements, we will continue to work with the Chief and Deputy Chief Coroner, the Ministry of Justice, consumer groups and representatives from across the sector. Through this engagement we will seek to understand how the competences are embedding into practice, whether they are having the impact on behaviours in the Coroner's Court and to develop mechanisms for thematic reporting of poor practice.

Annex A – Performance Dashboard and supporting report

Annex B – MN's letter to the Criminal Justice Review and supporting evidence

Annex C – MN's exchange of letters with Matthew Hill on public legal education


Business Plan Summary					
Task	Assigned	Size	Priority	Status	Budget
Strategic Aim 1 - Delivering risk-based, effective and targeted regulation					
1. FBT - implementation of new exams	ROD	2	High		
2. Exams review	ROD	3	High		
3. FBT - BCAT review	S&P	2	Medium		
4. FBT - evaluation	ROD	1	Medium		
5. Modernising decision-making	LED/ROD	3	High	N/A	N/A
6. Well-Led action plan ¹	G&CS	3	High		
7. Non-professional activities	LED	2	High		
8. Sanctions guidance	LED	3	High		
9. BSB culture and learning & development	HR	1	High		N/A
10. BSB Strategic Plan 2022-2025	S&P	2	High		
11. Code Review	S&P	3	Medium	N/A	N/A
Strategic Aim 2 - Encouraging an independent, strong, diverse and effective legal profession					
12. Pupillage	ROD	TBC	TBC	N/A	N/A
13. Assuring standards at the Bar - CPD	ROD	3	High		
14. Assuring standards at the Bar - Coroners' Courts	ROD	3	High		
15. Assuring standards at the Bar - EYP	ROD	3	High		
16. Equality and Diversity Strategy - Anti-racism	S&P	2	High		
17. Bullying, Discrimination & Harassment at the Bar	S&P	2	High		
18. Regulatory Return	ROD	2	High		N/A
19. Equality and Diversity Strategy - Equality Rules	S&P	2	High		
Strategic Aim 3 - Advancing access to justice in a changing market					
20. Research publications	S&P	2	High		
21. CMA quality indicators - collaboration & pilot	S&P	1	High		N/A
22. CMA quality indicators - consumer feedback	S&P	2	High		N/A
23. CMA evaluation	S&P	2	High		




Note/s

¹ Referred to as 'LSB Governance review' in the published Business Plan.

² Index is a calculation of the actual versus budget, multiplied by 100 - showing how far above or below budget the actuals are. For example, index 120 means 20% ahead of budget and index 80 means 20% behind budget.

³ Pending review by GRA Committee as part of Consolidated Risk Report.

Size  3 Large piece of work
1 Small piece of work

KPI Summary		C&A - General Enquiries		C&A - Initial Assessment
On target	9	General enquiries addressed (5 days) - 80%	General enquiries referred (3 days) - 80%	Concluded or referred (8 weeks) - 80%
<10% below target	1			
>10% below target	6			
I&E - Referral of Cases	I&E - Investigation	I&E - Quality Indicators		
Accepted or referred back (2 weeks) - 80%	Decision on disposal (25 weeks) - 80%	Original decision upheld by IR following review - 95%	Successful appeals against admin. Sanctions - 0%	Successful appeals of DT where BSB is responsible - 0%
89%	33%	100%	0%	0%
Authorisation - Authorisation, Exemptions & Waivers			Authorisation - Entity Authorisation	
Applications determined (6 weeks) - 75%	Applications determined (8 weeks) - 80%	Applications determined (12 weeks) - 98%	Authorisation decisions made (6 months) - 100%	Authorisation decisions made (9 months) - 100%
17%	24%	52%	100%	100%
	Supervision - Allocations	Supervision - Reg. Response	Supervision - Visits	
	Cases assigned after referral from CAT (2 days) - 80%	Regulatory response agreed (20 days) - 80%	Visit report letters issued (5 days) - 80%	
	88%	91%	100%	

Financial Summary				
Category	Q1 YTD Actual	Q1 YTD Budget	Variance	Index ²
Income	2,884	2,823	61	102
Expenditure	1,427	1,717	-290	83
Category	FY Forecast	FY Budget	Variance	Index ²
Income	12,774	12,689	85	101
Expenditure	6,964	6,989	-25	100

Corporate Risk Summary (Action Priority)				
Period	High	Medium-High	Medium	Low
Q1 21/22 ³	2	4	10	7
Q4 20/21	2	7	11	4

Directorates	% of occupied posts	
CPE	Communications and Public Engagement	100%
G&CS	Governance & Corporate Services	90%
LED	Legal & Enforcement	80%
ROD	Regulatory Operations	98%
S&P	Strategy & Policy	93%

2021-22 Quarter 1 Performance report – Regulatory Operations and Legal and Enforcement Departments

Contact & Assessment

Key points

- CAT experienced a spike in reports opened during this quarter, which is demonstrated in the workload by month graph.
- General enquiries resolved has exceeded those opened for the third quarter, resulting in a reduction in the number of queries outside KPI.
- The team has also improved on performance against KPI in relation to initial assessment, whilst also closing a high volume of cases.

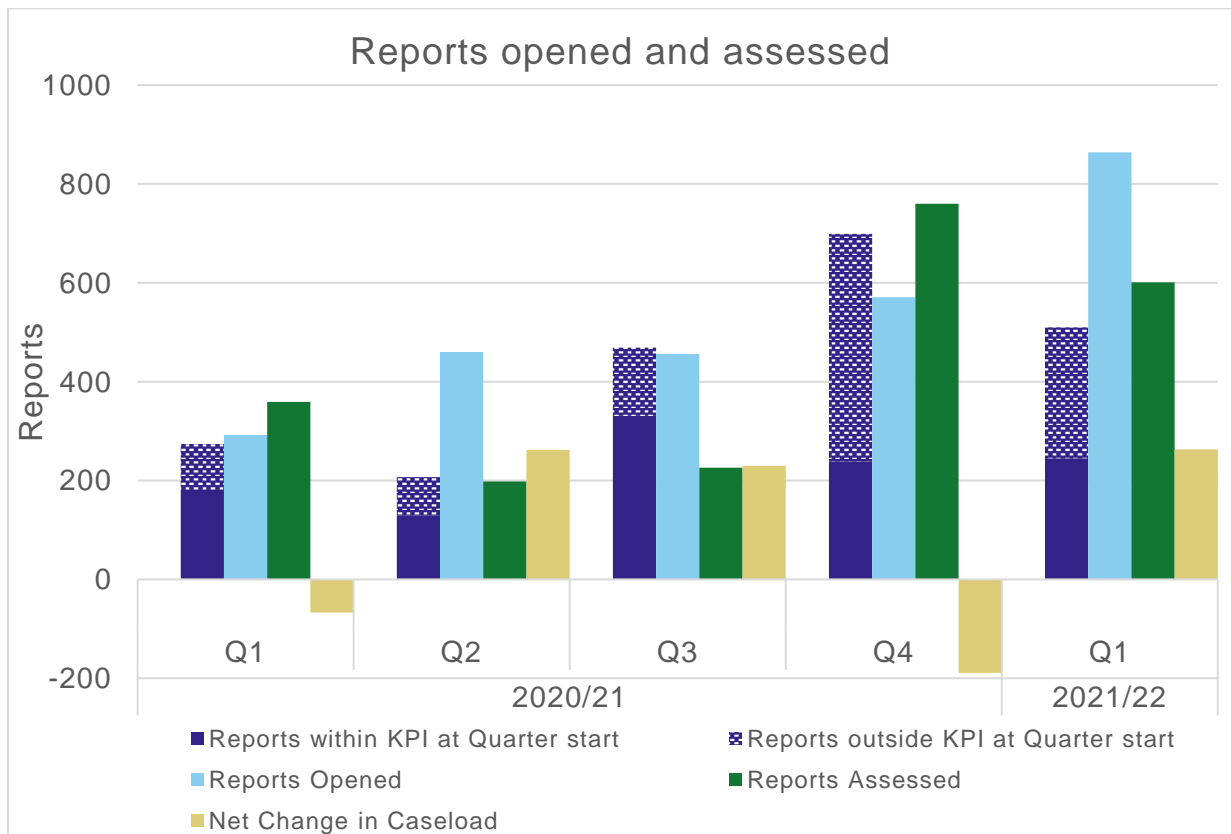
KPIs & performance data

KPI	Target	Performance Q1
General Enquiries		
The percentage of substantive responses to general enquires, that can be addressed by CAT, provided within 5 working days.	80%	76.7%
The percentage of general enquiries, which cannot be answered by CAT, that are referred to another team within 3 working days.	80%	56.2%
Initial Assessment		
The percentage of reports assessed and concluded by CAT, or referred to another team for action, within eight weeks.	80%	55.1%
Quality indicators		
Percentage of cases where the Independent Reviewer upholds the original decision following a request for review.	95%	100.0%

Number of calls received per month



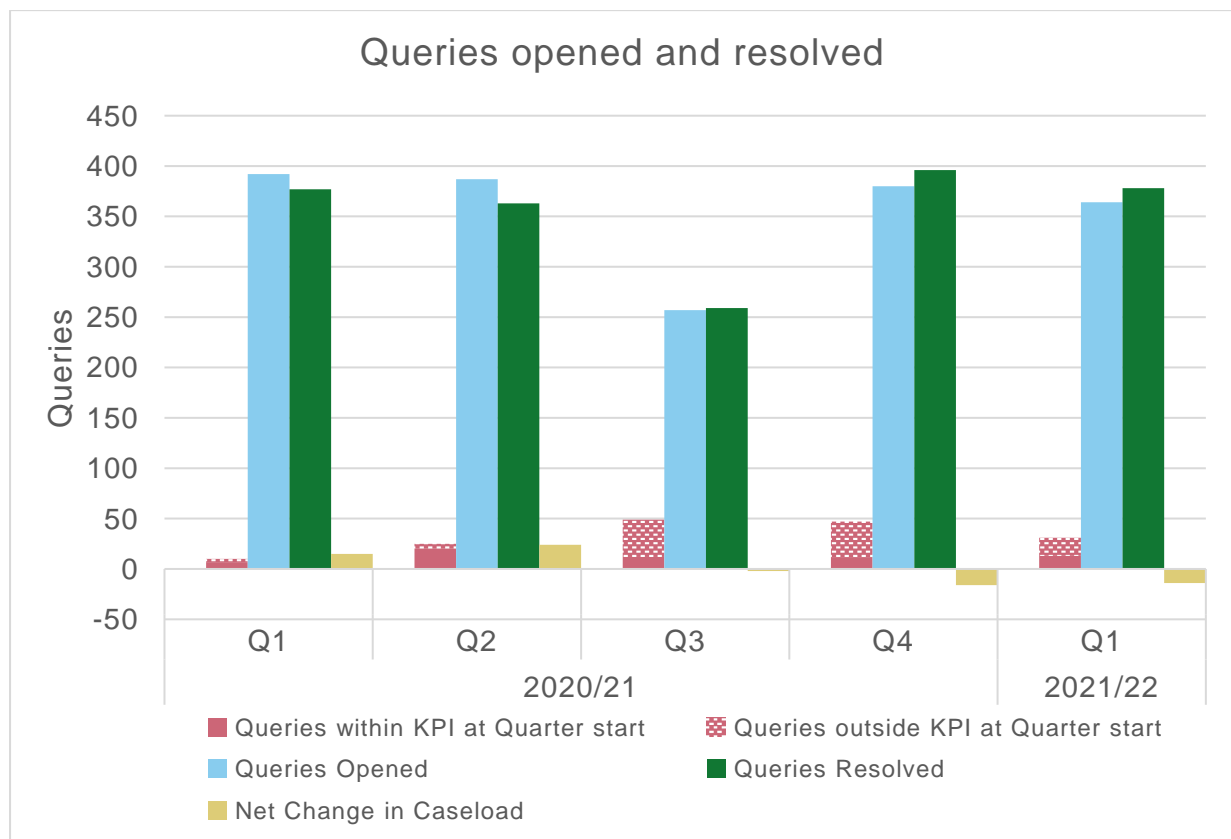
Reports opened vs Reports resolved



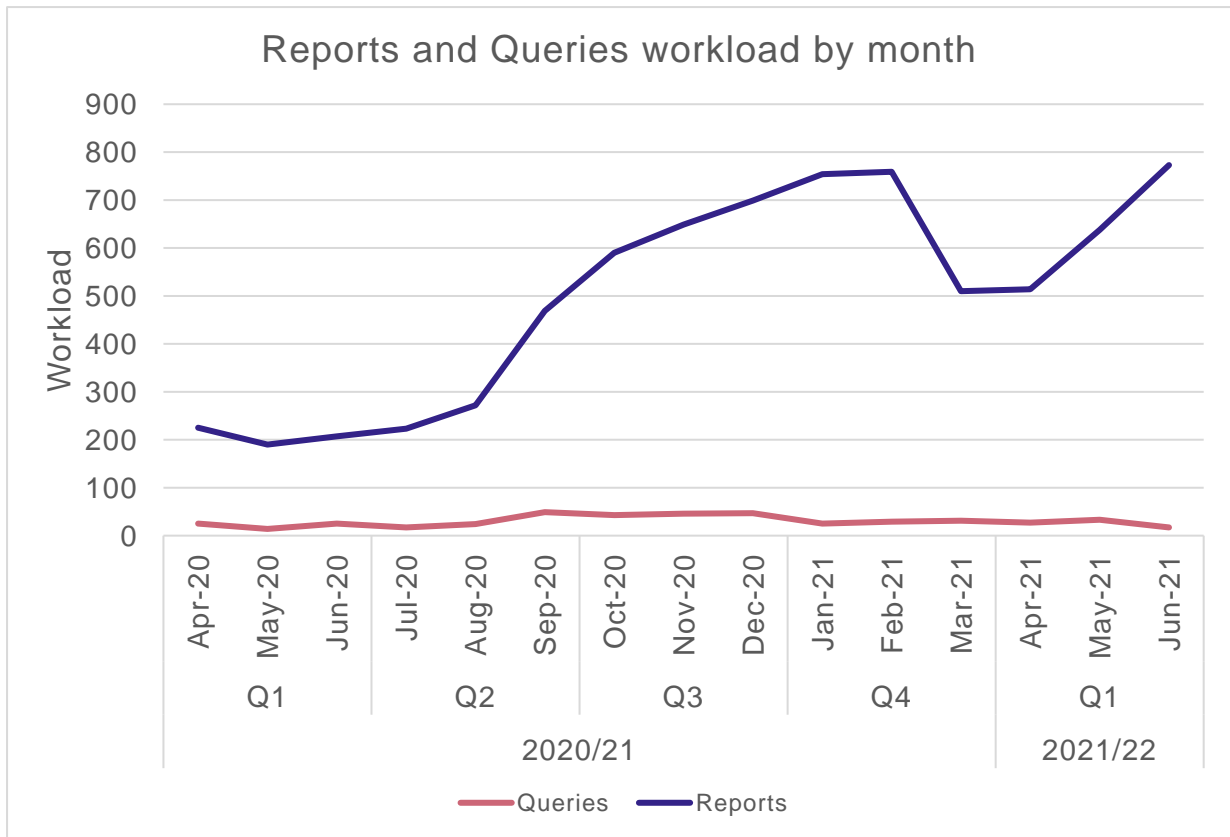
Part 1 – Public

1. This quarter the team has received two sets of bulk cases (i.e., multiple reports received concerning the same subject) both of which are currently ongoing. One of these cases led to 68 CAT cases being opened in June, the other resulted in 206 being opened in May and June, which are reflected in the above graph. These cases have yet to be concluded – we expect to see the impact in quarter 2.
2. The quarter 1 reports opened graph also includes over 30 practising certificate cases. The high number of reports this quarter has resulted in a net increase in caseload for this quarter.

General Enquiries



3. There has been a steady improvement on timely responses to General enquiries over the last 3 quarters. This is in partly due to the appointment of a second Assessment Assistant, which has also created additional capacity at officer level to assess reports.

Total caseload by month**Cases closed**

(% within service standard)

KPI	2020/21				2021/22
	Q1	Q2	Q3	Q4	Q1
General Enquiries					
General enquiries addressed (5 days)	314 (90.4%)	283 (81.3%)	218 (72.9%)	314 (74.8%)	305 (76.7%)
General enquiries referred (3 days)	57 (68.4%)	79 (60.8%)	41 (56.1%)	81 (66.7%)	73 (56.2%)
Initial Assessment					
Concluded or referred (8 weeks)	359 (79.7%)	198 (76.8%)	226 (44.2%)	760 (44.2%)	601 (55.1%)

4. The work to address the backlog of cases continues and the additional temporary staff resource is in place. There has been an increase in throughput this quarter with a high number of closures of individual cases. Many of these cases arose from practising certificate renewals which are relatively faster to assess than others. Accordingly, while 601 individual cases is a high number, we do not consider that this is likely to be maintained.

5. The high throughput of older cases has inevitably resulted in the KPI not being met, albeit performance has improved on last quarter. There has also been work close adjourned cases, most of which were inside KPI.

Live cases

Snapshot at the close of Q1 of 2021-22

Operational Indicator	Total Open Cases	Over-running Cases	Percentage Over-running
General Enquiries			
General enquiries addressed (5 days)	12	9	75%
General enquiries referred (3 days)	2	2	100%
Initial Assessment			
Concluded or referred (8 weeks)	821	267	33%
Total	835	278	33%

Commentary

6. The team has improved on last quarter's performance, despite a staffing gap of approximately 6 months at Assessment Officer level. The issue continues to be the volume of new cases coming through, as dealing with spikes in workload creates delay and a further backlog which can negate previous progress. However, the team has not seen an increase in high-risk cases requiring investigation. This has remained broadly static with a stable percentage of cases being referred, and slightly less referrals year on year.
7. In this quarter we had a lower response rate to our customer service survey, with 5 completed this quarter. However, it is of note that three of those were overwhelmingly positive. Two surveys responses related to queries. The results for these were positive. Only two negative answers (out of 16) in relation to the ease of finding information and the clarity of BSB's processes.
8. 3 survey responses related to reports. Two related to reports closed without further action. One could not be linked to the actual report however, it is likely that this too was a closure without action. Of these three, one of these was completely positive. The other two were primarily negative. Across the responses relating to reports, 5 of 9 answers to questions about ease of access were positive. For questions about our communication, 6 out of 9 were negative. As for timeliness, 4 out of 6 were negative.

9. The snapshot of over-running cases at the close of quarter 1 represents an 18% reduction in numbers outside KPI when compared to quarter 4 of 2020-21. If the profile of cases remains as it is, with no further bulk cases received, we expect to see a significant improvement in KPIs by quarter 4, with KPIs being met by the end of the financial year, though much of this is dependent on number of cases received.

Authorisations

Key points

- The team has continued to work to reduce its backlog, meaning that there are no pending applications older than 3 months. This has resulted in reduced performance against KPI due to older applications being progressed.
- There has been a net reduction in overall caseload due to the high number of applications determined this quarter.
- The snapshot of live cases at the close of this quarter shows that the team has begun to improve performance, with 20% of applications currently outside KPI.

KPIs and performance data

KPI	Target	Performance Q1
Authorisation, Exemptions and Waivers		
The percentage of applications determined within six weeks of receipt of the complete application.	75%	17.1%
The percentage of applications determined within eight weeks of receipt of the complete.	80%	24.0%
The percentage of applications determined within twelve weeks of receipt of the complete application.	98%	52.3%
Entity (including ABS) Authorisation		
The percentage of authorisation decisions made within six months of receipt of the application and associated fee.	90%	100.0%
The percentage of authorisation decisions made within nine months of receipt of the application and associated fee.	100%	100.0%

Cases closed

(% within service standard)

KPI	2020/21				2021/22
	Q1	Q2	Q3	Q4	Q1
Authorisation, exemptions and waivers					
Applications determined within six weeks of receipt of the complete application	58 (21%)	91 (35%)	92 (32%)	59 (19%)	59 (17%)
Applications determined within eight weeks of receipt of the complete application	85 (30%)	123 (48%)	142 (49%)	86 (28%)	83 (24%)
Applications determined within twelve weeks of receipt of the complete application	138 (49%)	190 (74%)	196 (67%)	149 (48%)	138 (52%)
Entity (including ABS) Authorisation					
Authorisation decisions made within six months of receipt of the application and associated fee	5 (100%)	1 (50%)	7 (100%)	4 (100%)	1 (100%)
Authorisation decisions made within nine months of receipt of the application and associated fee	5 (100%)	2 (100%)	7 (100%)	4 (100%)	1 (100%)

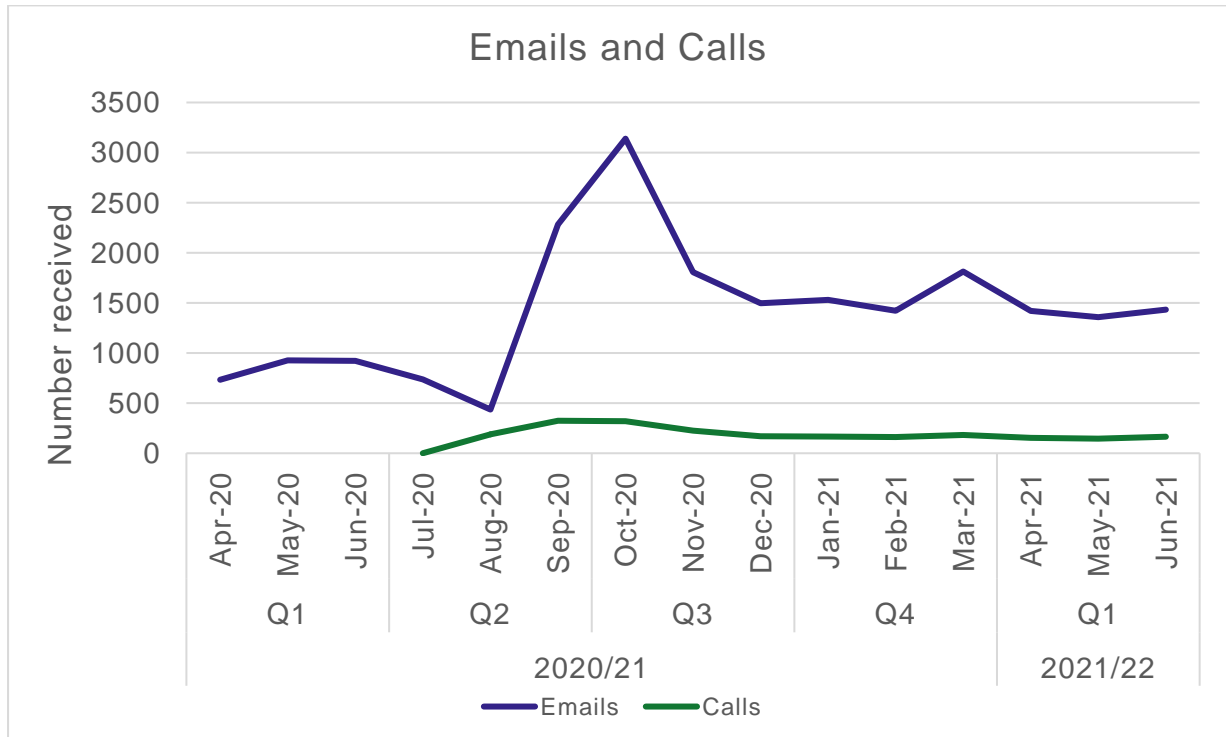
Live cases

Snapshot at the close of Q1 of 2021-22

Operational Indicator	Total Open Cases	Over-running Cases	Percentage Over-running
Waiver applications			
Decisions made (12 weeks)	175	35	20%
Total	175	35	20%

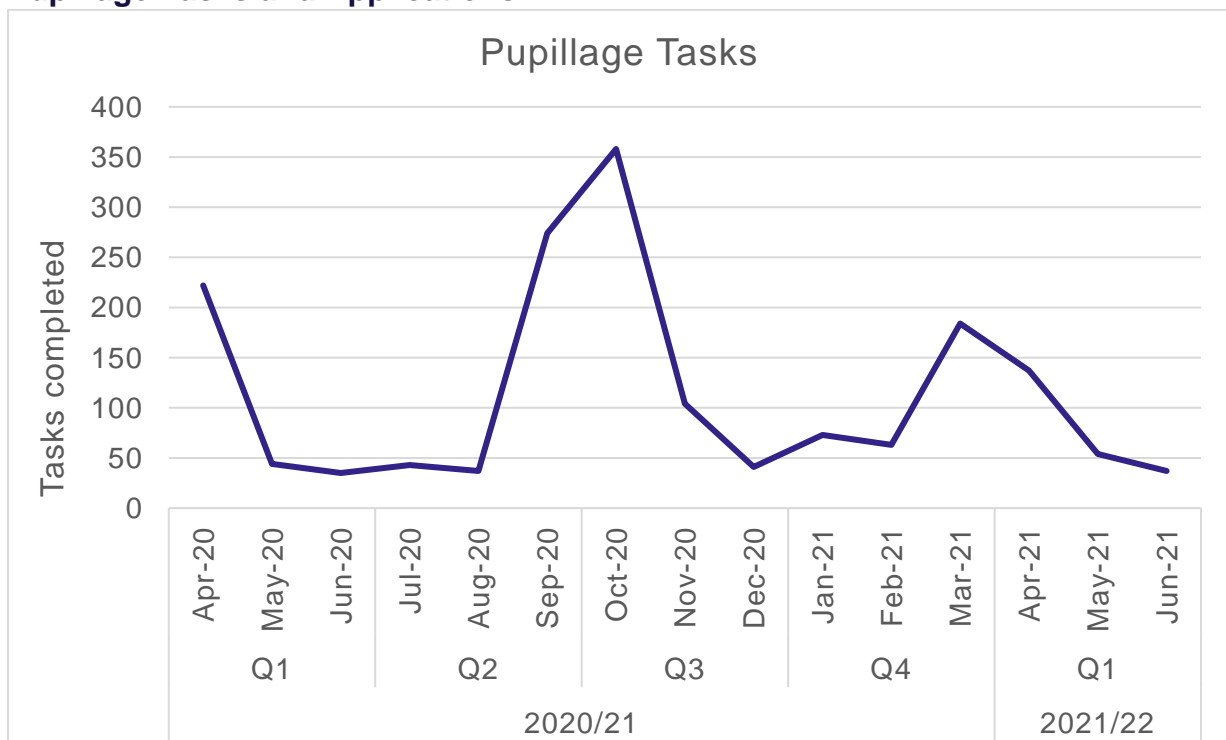
10. We have begun collating a snapshot of live authorisation applications at the start of each month, so that later in the year we can include this workload information in the throughput charts (as already seen for CAT, I&E, and Supervision). Although we do not have enough data yet to include this in the charts for the Q1 report (at least two quarter's worth of records are required), it does mean that we can present an Authorisations Age Profile table which already exists for the other teams.

Emails and calls



11. The team's [Service Update page](#) has reduced queries and thus workload.

Pupillage Tasks and Applications



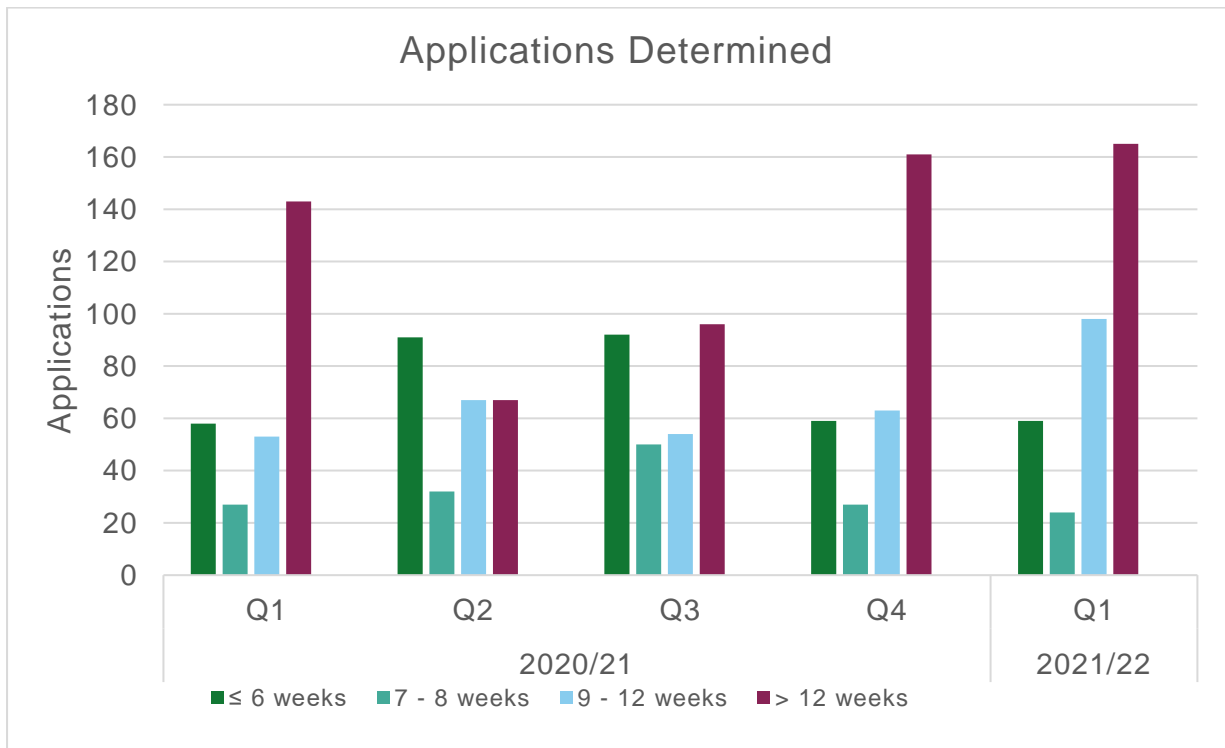
12. SPR Committee has approved a 6-month Officer level role within the authorisations team to deal with spikes in work due to pupillage work in September and January/February, as seen above.

Applications received and determined

Year	Quarter	Received	Determined	Net change in caseload
2020/21	Q1	245	280	-35
	Q2	315	255	60
	Q3	340	290	50
	Q4	310	310	0
2021/22	Q1	235	345	-10

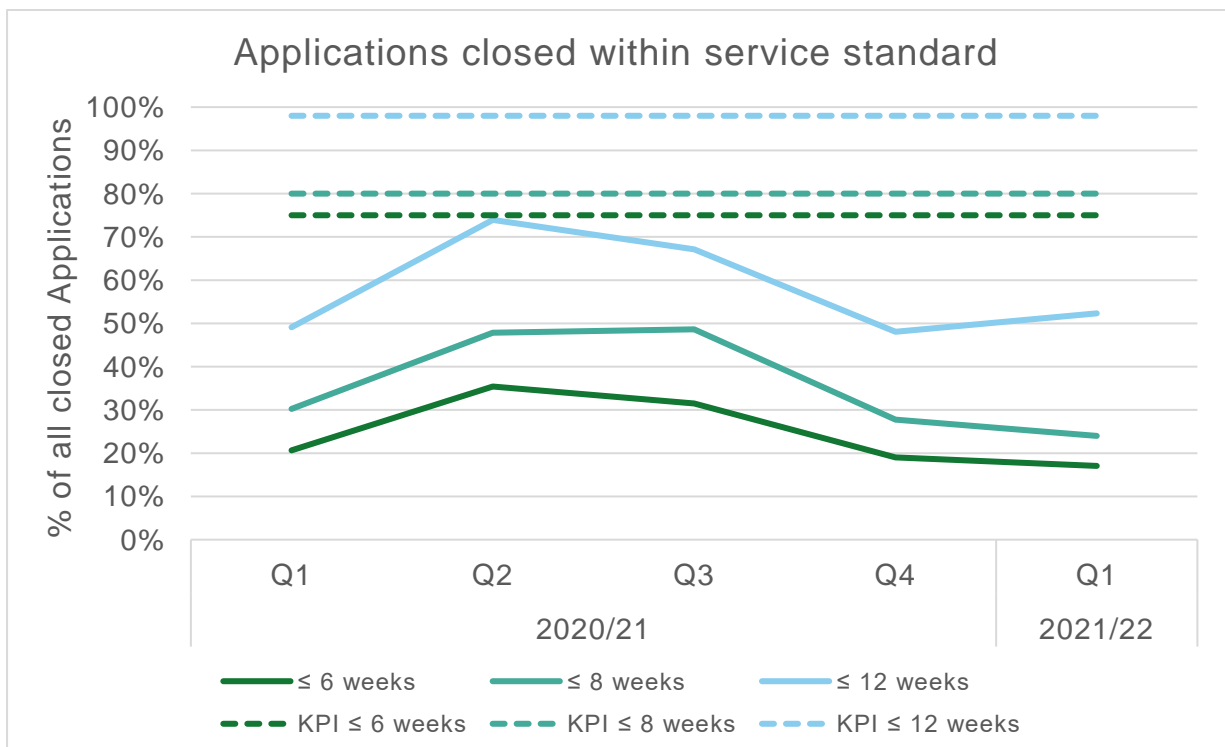
13. There has been no increase in applications this quarter, and we believe the new online process for Foreign Qualified Lawyers has had a positive impact on workload. The team has determined the highest level of applications for a year during this quarter, which can be seen above in the corresponding reduction in overall caseload.
14. At the time of writing there are currently around 107 applications awaiting determination distributed across the team. This does not include the 181 applications which require either information or fees from the applicants to progress to assessment stage. Nor does it include the 67 AETO applications subject to transitional arrangements. Each officer completes on average 2-5 per day, which equates to around 100 per month. The team has performed above this level over the last quarter.

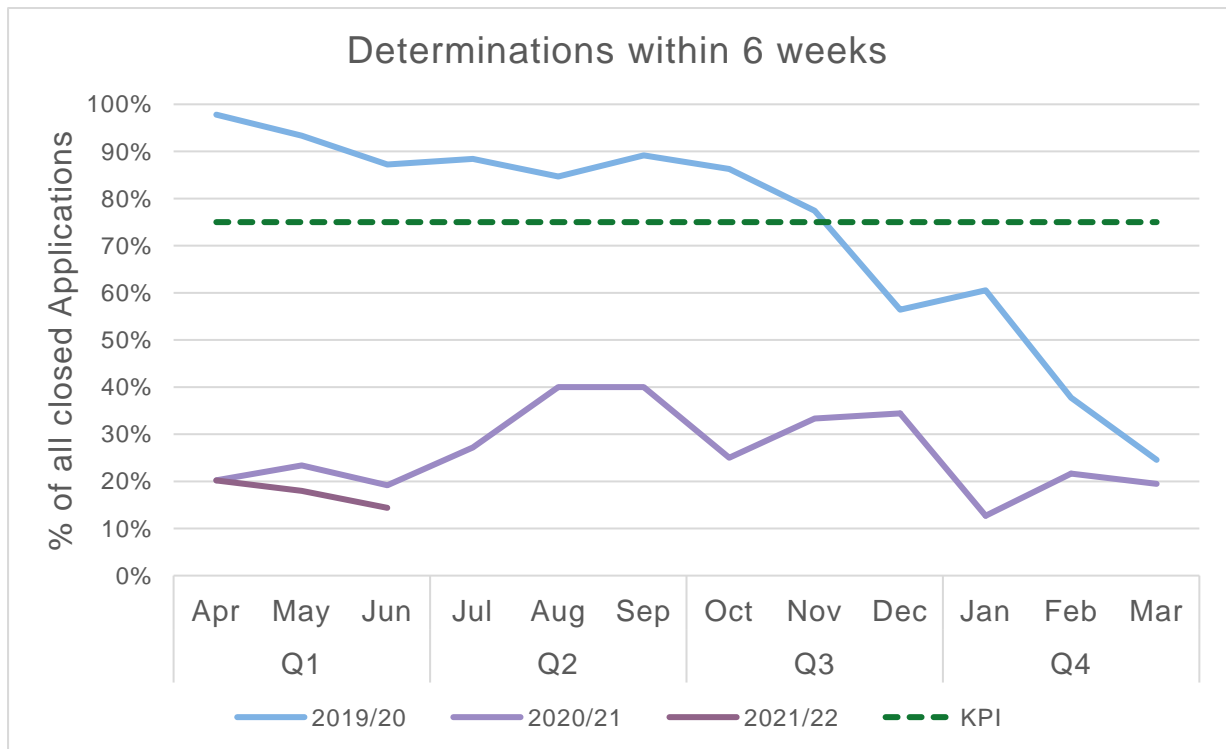
Applications Determined



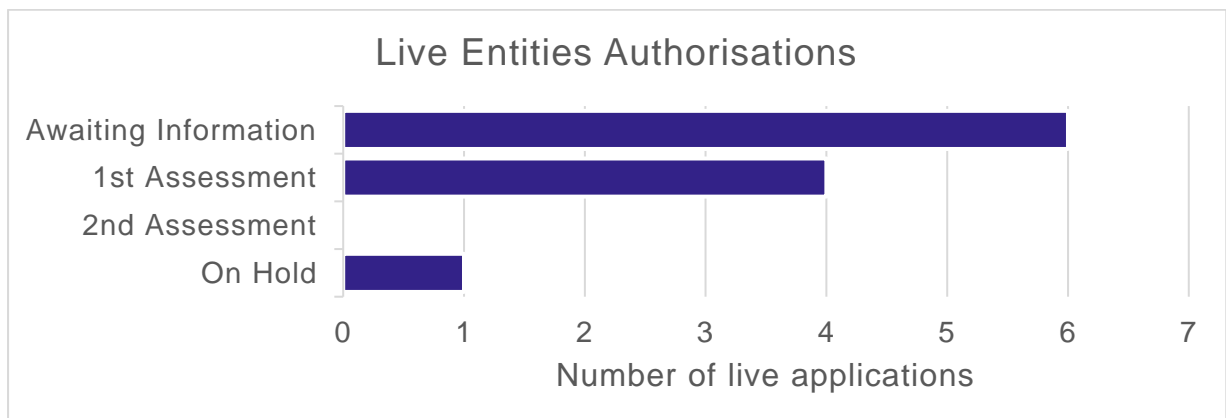
15. In this chart it is evident how the focus on older applications has impacted upon performance against KPI as those are cleared. The emphasis on clearing older cases has a lag effect on KPI performance, which is reflected in the KPI statistics.

Quarterly improvement





Live Entities Authorisations



16. One entity was authorised during this quarter, which is not yet trading. Of the remaining live applications, some have been approved but have not yet completed all requirements to start trading, with others needing to answer additional questions before a decision can be made to authorise.

Commentary

17. The team currently has 49 ‘aged’ applications. We anticipate that we will see a turnaround in performance commencing in quarter 2, meaning that we aim to be consistently meeting KPIs by the end of quarter 4. This strategy of clearing aged cases has an impact on performance against KPIs this quarter but creates the right foundation for the team to get on top of cases as they are received.
18. The team has performed well to reduce the number of aged applications, this is reflected by the statistical data which presents a higher number of applications falling outside of the KPIs being determined.
19. The team has also implemented the PTO to AETO transitional arrangements in April 2021 which aims to authorise a further 270 currently authorized PTOs to AETOs by 31 March 2022. This involves the team assessing an additional 6 applications per month (minimum) in addition to their BAU workload. This target has been met in Q1.

Investigations and Enforcement

Key points

- Following a concerted effort to clear the backlog, the team has exceeded the KPI relating to acceptance of cases for investigation.
- Throughput generally continues to be maintained but as noted in last quarter’s report, vacancies at officer and administrative level have continued to impact the investigation KPI.
- The low performance against the investigations KPI is a result of concluding older cases and the percentage of cases overrunning the KPI deadline at the end of the quarter indicates 70% of live cases were still within the KPI target
- Quality indicators demonstrate that decision-making continues to be robust and stands up to scrutiny.

KPIs and performance data

KPI	Target	Performance Q1
Referral of cases		
The percentage of cases referred by CAT to another team for regulatory action that are accepted or referred back to CAT within 2 weeks.	80%	89.2%
Investigation of allegations		
The percentage of investigations of allegations of breaches of the Handbook completed, and a decision taken on disposal, within 25 weeks of acceptance.	80%	33.3%
Quality indicators		
Percentage of cases where the Independent Reviewer upholds the original decision following a request for review.	95%	100.0%
Number successful appeals against the imposition of administrative sanctions.	0%	0.0%
Number successful appeals of Disciplinary Tribunal decisions attributable to procedural or other error by the BSB or discrimination in the decision-making process.	0%	0.0%

Cases closed

(% within service standard)

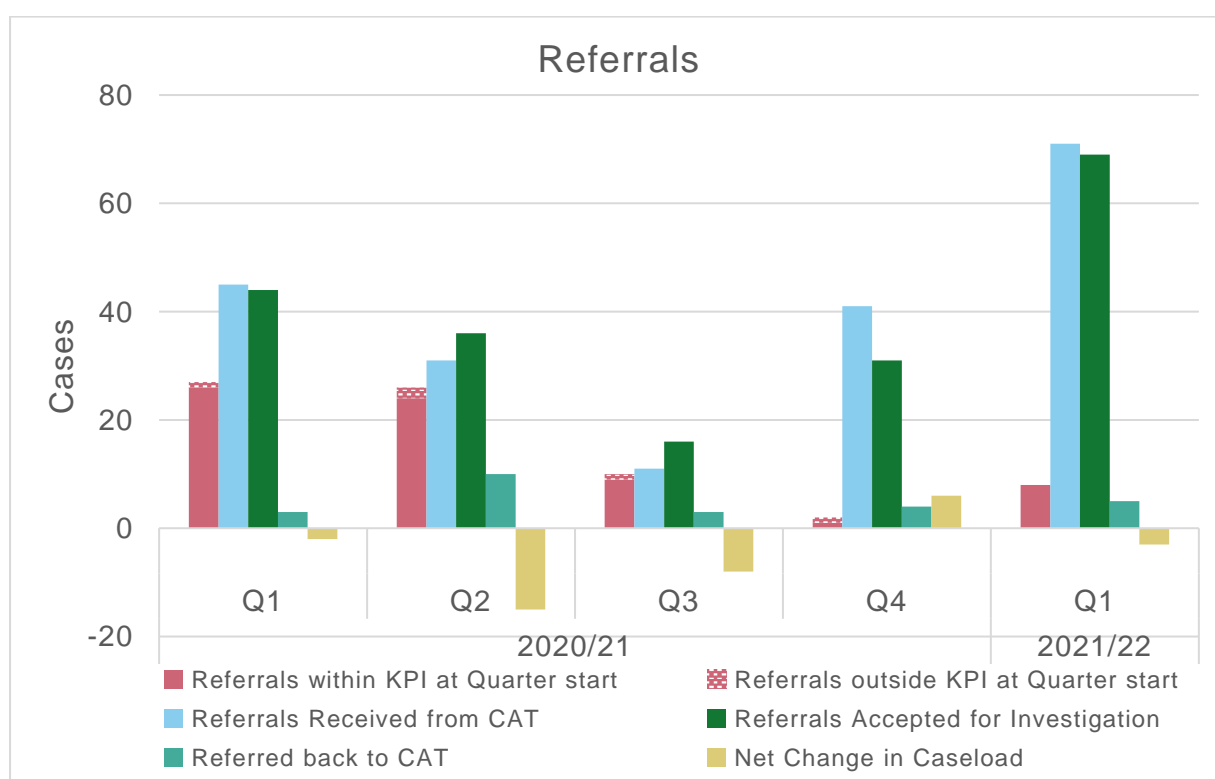
KPI	2020/21				2021/22
	Q1	Q2	Q3	Q4	Q1
Referral of cases					
Accepted or referred back (2 weeks)	47 (12.8%)	46 (17.8%)	19 (36.8%)	35 (65.7%)	74 (89.2%)
Investigation					
Decision on disposal (25 weeks)	24 (66.7%)	35 (51.4%)	32 (29.0%)	31 (29.0%)	24 (33.3%)

Live cases

Snapshot at the close of Q1 of 2021-22

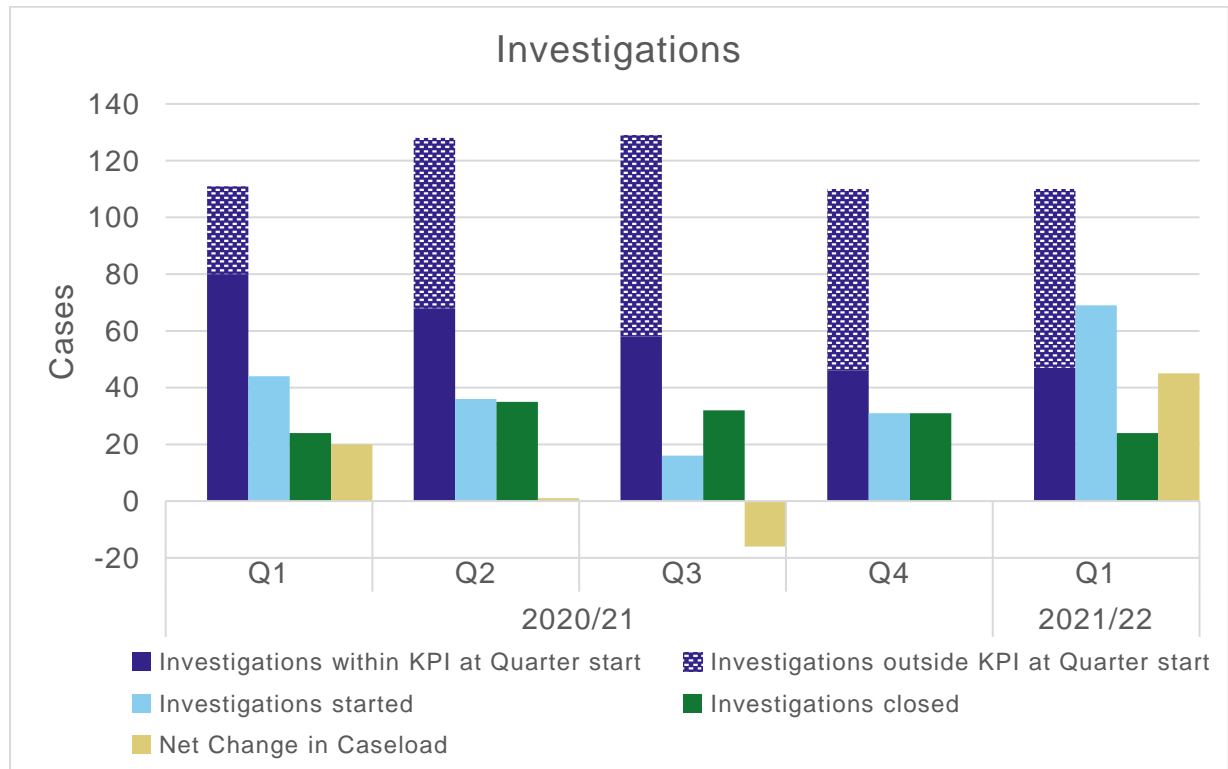
Operational Indicator	Total Open Cases	Over-running Cases	Percentage Over-running
Referral of cases			
Accepted or referred back (2 weeks)	6	0	0%
Investigation			
Decision on disposal (25 weeks)	151	46	30%
Total	157	46	29%

20. The above age profile snapshot shows an improving picture, with a much larger proportion of cases currently within KPI than at any time since quarter 1 of 2020-21.

Referrals (Pre-investigation)

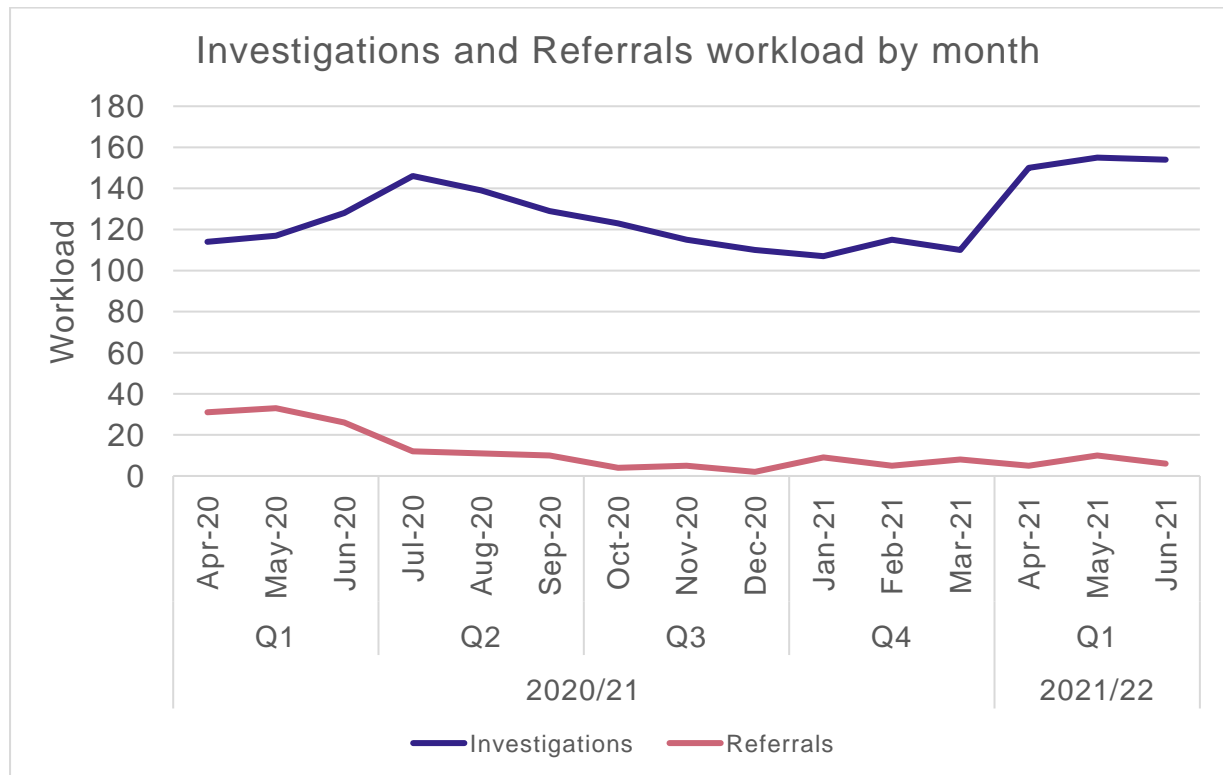
21. This chart demonstrates that throughput is being maintained at acceptance of referral stage, with a higher volume of cases being accepted more quickly. Overall, the I&E caseload has increased, as can be seen from the chart below. including the practising certificate cases discussed at paragraph 2, caused by the extension of the deadline due to COVID and the resulting confusion.

Investigation cases



22. The team has been making a concerted effort to clear older cases. However, when a high percentage of cases are outside KPI, closing them results in reduced performance against the KPI albeit that the closures represent positive progress.
23. As can be seen from that above chart, the team usually closes 30-40 cases per quarter, hence throughput has slowed down slightly in relation to investigations.

Referrals and Investigations



Commentary

24. The impact of staff leaving can be felt in the performance of the team for potentially up to a year including recruitment, induction, and training, especially if more than one person leaves in a quarter or goes on maternity leave. These factors, within a team that is leanly staffed, result in a lack of capacity and a consequent impact on performance against the KPIs. This has been the pattern now for several years and demonstrates that greater resilience in the staffing complement is needed. As indicated above, this is actively being addressed by the Senior Management Team in the business planning cycle.
25. Unfortunately, a considerable amount of time in the quarter was spent on sorting out the work of a Case Officer who was underperforming and has since left the BSB. This resulted in less capacity for the team to progress other cases. In addition, there were an unusual number of multi-day hearings (3-5 days) in the period.
26. Staff turnover and difficulties in recruiting to vacancies and new posts have meant that the I&E team has effectively been understaffed throughout the quarter. We have experienced problems recruiting to an I&E assistant role as well as to the additional Senior Case Officer role and a temporary paralegal officer transferred to another part of the BSB. It is

not likely the team will be fully staffed until quarter 3. As part of the development of the BSB Strategic Plan and the budget for 2022/23, consideration is being given to what resources are required to ensure effective progress of enforcement cases and a time recording exercise is being carried out to inform this. In the meantime, managers are continually reviewing case allocation and operational processes to minimise disruption and maintain throughput.

27. Recent implementation of planned changes will hopefully have some impact on performance e.g. the recruitment of the Regulatory Panel Manager (commenced in post in early July) who will take over tasks currently performed by I&E Officer such as acting as secretary to IDB meetings. The integration of our case management system and CaseLines (the online software that allows for communication of case files) has also gone live, and it is anticipated that this will also save significant I&E staff time in preparing bundles for IDB and tribunals. Nevertheless, the view now is that these changes will only reduce current crisis management pressures but will not necessarily create the longer-term resilience that is needed.
28. Finally, one ongoing and increasing feature of I&E casework is the level of challenges to the BSB's enforcement processes and/or authority to take action, the vast majority of which are unmeritorious. Many of the cases are not complex in relation to the underlying conduct but generate a large volume of work and thereby distraction from progressing other cases. We have been developing a system for categorising cases that will allow us to monitor the impact on resources of such cases as well as the general complexity of cases. This will assist in determining better: where resources are needed; our capacity to handle the caseload; and the reasons for service standards not being met.

Supervision

Key points

- This is the first report that includes KPIs for Supervision. KPIs are now being actively monitored monthly after a year of developing and embedding processes for using the Case Management System. Comparable KPI data for 2020/21 is therefore not included.
- The team has met all its KPI targets this quarter, despite the increase in number of cases referred by CAT or opened by Supervision.

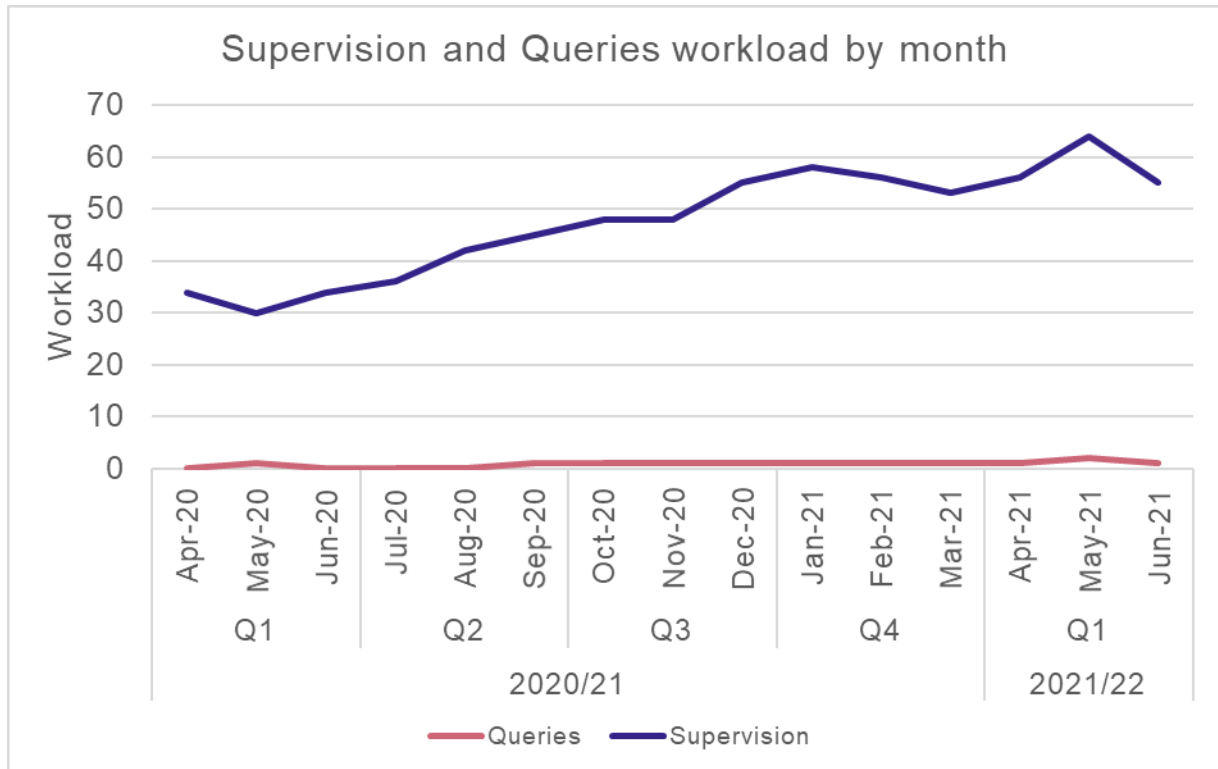
KPIs and performance data

KPI	Target	Performance Q1
Allocations		
Cases assigned within 2 working days of the team receiving the referral from CAT.	80%	87.5%
Regulatory Response		
Cases for which a regulatory response was agreed within 20 working days of the case being assigned.	80%	90.9%
Visits		
Visit report letters issued within 5 working days of a visit to an organisation.	80%	100.0%

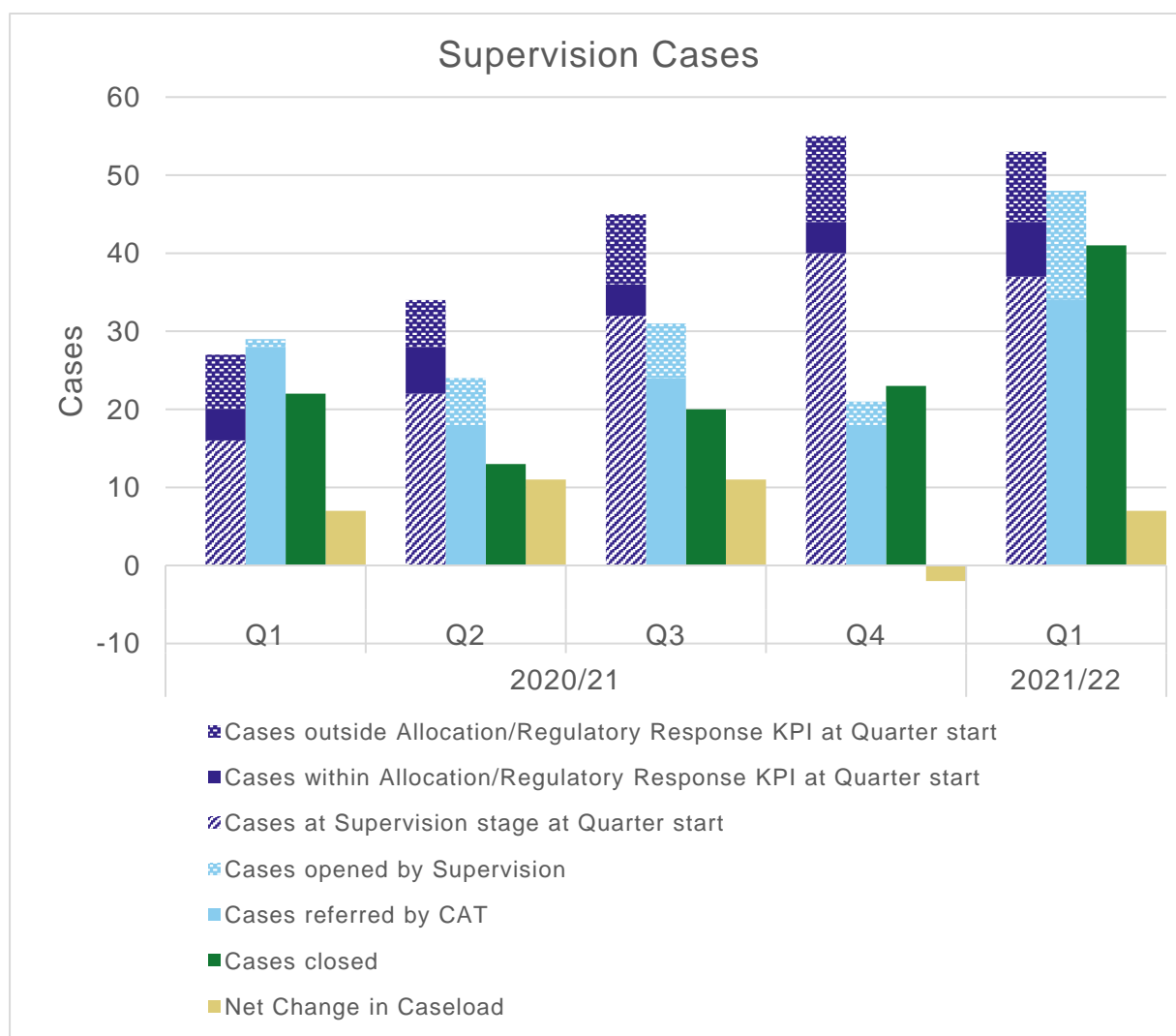
29. Our KPI for allocating cases to a Supervision officer is 2 working days from receipt of referral by CAT. We have realised that the CRM counts the day of referral by CAT as day 1, whereas we thought that the day count started on the subsequent day (which was intended when setting the KPI). This will be changed. In this quarter, only two cases were allocated outside the intended KPI, and were allocated after 3 and 4 days respectively.
30. Our KPI for the Supervision officers to determine a regulatory response (e.g. call the chambers or conduct a visit) is 20 working days from allocation. Four out of 48 cases were determined outside of the KPI. Three were over by 1 to 4 days only.

Supervision open case volumes

Case Type	Total Open
All Excluding Regulatory Returns	
All cases	58
Of which have 'Hold – I&E' status	15
Regulatory Returns	
All cases	297



31. The chart above demonstrates that open caseload has continued to rise over the course of the last 12 months. This reflects the pattern of volumes of cases being action by CAT, as most cases are opened as a result of referral by CAT, as well as the fact that cases were put on hold pending I&E and Authorisation action or assessment of the Regulatory Return (see below).
32. Queries raised by CAT and referred to Supervision are marked as closed by CAT and are therefore not reflected in the above statistics. There is currently no way of reporting this from the CRM.



33. This is the first report that includes KPIs for Supervision. KPIs are now being actively monitored monthly after a year of developing and embedding processes for using the Case Management System. Comparable KPI data for 2020/21 is therefore not included in the first table in the Supervision section.
34. The team has closed a higher volume of cases this quarter, resulting in a relatively small net change in caseload despite the high volume of cases opened. A number of outstanding cases that were previously put on hold awaiting other action were actioned by Supervision in this quarter:
- Some cases were put on hold so that they could be dealt with at the same time as the Regulatory Return was being assessed, because the subject matter was the same (e.g. a report concerning complaints procedures could be assessed in the context of the information provided by the chambers in the Regulatory Return).
 - Some reports relating to pupillage were put on hold pending the assessment of the AETO application by the Authorisations Team,

where the application questions covered relevant policies and processes. As the timeframe for the AETO authorisation process has been extended, we have decided not to wait for the AETO application for new cases in order not to delay Supervision action. Where Supervision concerns arise, these are referred Authorisations to prioritise submission and assessment of the AETO application.

- High risk cases are often referred to both Supervision and I&E. In such cases, CAT consider that it is likely to be appropriate for Supervision to look at policies and processes in a chambers if the I&E case against an individual concludes with enforcement action. I&E cases that were listed for tribunal were held up by the impact of COVID-19 but have now been progressing. A backlog of Supervision cases awaiting enforcement outcome were therefore progressed.

Snapshot of open actions agreed with barristers, chambers, entities and AETOs

Year	Quarter	Total Open Actions	Actions Outside Due Date	Total Cases with Actions	Actions where due dates was revised
Cases opened by Supervision or referred from CAT					
2021/22	Q1	23	5	6	3 (12.5%)
Regulatory Returns					
2021/22	Q1	45	16	16	0 (0.0%)

35. This chart shows the number of actions that chambers, entities, barristers and AETOs have been set following Supervision review, which were open at the quarter end. In future, we will extend this table to show the opening position, actions raised and closed in the quarter, and the closing position. The table is split into actions from cases opened by Supervision or referred by CAT and those arising from the Regulatory Returns. The team has not been consistently using the actions section of the Supervision CMS and we are currently embedding the process of recording actions from all supervision activity, including thematic reviews. This will also feed into risk reporting.



By email to: iclar@justice.gov.uk

2 July 2021

Dear Sir Christopher

Response to the call for evidence - Independent Review of Criminal Legal Aid Review of Legal Aid

I realise that you are now digesting the evidence submitted to your review, but I hope it is not too late to let you have a digest of relevant evidence compiled in recent weeks by the Bar Standards Board.

You will understand that, as the regulator, we have an interest in the current and future supply of barristers because of our responsibilities to promote both access to justice and competition in the provision of services. With those regulatory objectives in mind, we have taken a close interest in trends in recruitment to, and progression at, the Bar, particularly at the publicly-funded Bar. We have also used our quinquennial Regulatory Return to gather evidence from chambers on the impact of the health emergency on current and future plans to offer pupillage places.

The cumulative evidence from these and other sources is summarised in the attached note.

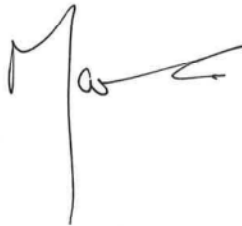
You will draw your own conclusions, but, as the regulator, I would highlight that:

- Generally, this is an ageing profession, but criminal barristers are, on average, older than the Bar as a whole: this comes about because recruitment to pupillage is well down on the levels of the 1990s, but retention has generally been strong in the period since. Retention cannot, however, go on for ever.
- The health emergency hit pupillage recruitment hard in the short-term – with 2020 numbers down 35% on 2019 – but is now bouncing back across most of the Bar. The exception, however, is the Criminal Bar where pupillage continues under pressure in part as a result of the health emergency, but, more fundamentally, because many chambers cannot afford to support pupils.

- These pressures on the Criminal Bar come through in the earnings statistics where the 2020 authorisation to practise exercise shows that 32.8% of barristers at the Criminal Bar earned less than £60,000 compared to 29.5% of all barristers; the equivalent figures for barristers within 15 years of Call are 44.1% and 29.5% respectively.
- These pressures on the Criminal Bar impact on diversity because barristers from ethnic minority backgrounds are over-represented among barristers relying on publicly-funded work and within smaller chambers. What is more, among barristers specialising in criminal work, barristers from minority ethnic backgrounds and women barristers earned less than their white counterparts.

If you or the members of your team would find it helpful to explore this evidence base and these findings in greater depth, I should, of course, be happy to set up a meeting.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mark Neale', with a stylized flourish at the end.

Mark Neale
Director General

BY EMAIL

Matthew Hill Esq.
Chief Executive
Legal Services Board
The Rookery
2 Dyott Street
LONDON WC1A 1DE

16 August 2021

Dear Matthew

PUBLIC LEGAL EDUCATION

When we discussed public legal education at the MTCOG meeting on 26 July, you encouraged me to have another go at bringing colleagues together to discuss how we might develop a cross-cutting strategy.

I do so with a certain amount of diffidence because my last attempt – in Summer 2020 – was not a great success. It was plain then that several colleagues felt that their contributions to “Legal Choices” fulfilled their obligations in this area and that they did not have the resources to look much beyond.

While I sympathise with these constraints, I also, as you know, take the view – shared by my Board – that “Legal Choices” does not really constitute a strategy, although it may make a useful contribution to one.

So how might we go about developing a strategy and then determining how best Legal Choices could support it?

The first requirement, as Kate said, is to be clear what we mean by “public legal education itself”. You supplied an answer – with which I very much agree – that public legal education should primarily focus on “just in time” help to consumers with legal problems to understand that they have a problem and then to gain access to the professional help they need to resolve it. What legal service or services might meet their needs and how do they find the most cost-effective provider of that service?

If that is indeed our definition of “public legal education”, we then need to answer some further questions in order to devise a coherent and workable strategy. In particular, we need to decide what consumers are most in need of just in time help now, what level of confidence in or awareness of legal services those consumers need and, accordingly, what messages we want to give to those consumers, and by what channels we want those messages to reach them.

Answering those further questions almost certainly depends on some form of market segmentation. We might segment the market according to levels of understanding of, and confidence in dealing with, legal services. It would be natural to prioritise consumers with the least understanding and confidence. We might also cut things according to legal needs. As I mentioned, we in BSB have worked with our partners, Law for Life, Support through Court and Refugee Action to identify a

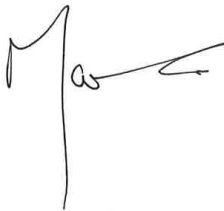
number of potential needs including litigants in person, vulnerable women and refugees. We have also identified a need among small business for advice on debt-related problems in the wake of the health emergency. There are no doubt other emerging needs among consumers.

We might want to take into account the degree to which consumers with these needs find themselves in vulnerable circumstances. Probably, our segmentation should take account of all these factors.

So my proposition is that we might get together for an initial discussion of how we might go about developing a market segmentation on these lines and then move from that to an agreed strategy. When we're clear whom we want to reach, with what messages and with what aim, we can agree how "Legal Choices" might contribute, but also how regulators, including BSB, can best support such a strategy through their own websites, partnerships with third sector organisations and other communication channels. We might also be in a position to identify the external partners with the greatest potential to engage the consumers we identify as the current priorities for legal education/awareness.

I'm very ready to facilitate and chair such a discussion if there an appetite for it. With that in mind, I am sending copies of this letter to other members of MTCOG

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mark Neale', with a stylized flourish at the end.

MARK NEALE
Director General

SENT BY EMAIL

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2 September 2021

Dear Mark

Public legal education

Thank you for your letter of 16 August setting out your thoughts on how the BSB might coordinate efforts by the regulatory bodies to develop a cross-cutting strategy on public legal education (PLE). We also discussed this by phone on 12 August.

As you know, we will soon consult on a draft statement of policy on empowering consumers. Our intention is to set an expectation of all regulatory bodies that they put in place an effective programme of activity to support the regulatory objective of increasing public understanding of the citizen's legal rights and duties. Further, that they make meaningful contributions to cross-sector initiatives, such as Legal Choices, that are subject to appropriate mechanisms to ensure they are effective.

We see Legal Choices as a key component of such a programme of activity. It is encouraging that following investment by regulatory bodies in the content and marketing of the platform, substantial numbers of visitors are accessing information about legal services on a market-wide basis. However, as I hope our focus on programmes of activity indicates, there remains significant scope and indeed opportunity for all of us – the frontline and oversight regulators working together - to pursue additional activities, both individual and collectively, as part of a wider strategy, to the overall benefit of the public.

Against that background, and subject to the agreement of colleagues across the sector, we would be delighted to see BSB take the lead on co-ordinating a cross-sector strategy on PLE.

As we discussed on 12 August, one way of making a start without setting up further additional structures might be to establish the work as a BSB-led “module” of MTCOG. This would be entirely in keeping with the ways of working we had envisaged for that group, namely that no single member has a monopoly on leadership. If you agree to this as a potential mechanism for giving life to your proposition, I would be happy to pursue it with members.

Turning to the points of detail you raise in your letter, we agree entirely with your points about the focus on just in time information, support for people in vulnerable circumstances and the role of segmentation. We stand ready to contribute analysis from the LSB’s Individual Legal Needs Survey, which provides a rich seam of data on the issues that citizens face and how they seek to resolve them. We have published a standalone analysis of the legal capability dimension of this survey. Further, our research team has used the data to perform a segmentation exercise based on legal capability, including a focus on vulnerability, which we are preparing to publish. This analysis would, we think, support the sort of targeted approach you set out and we would be delighted to walk you and colleagues at other regulators through the approach and findings. As you suggest, market segmentation could be a jumping off point for agreeing a strategy.

I look forward to discussing these matters with you further. I would encourage all regulatory bodies to engage positively with this initiative with the aim of agreeing a way ahead at the next MTCOG meeting on 8 October.

I have copied this letter to the other regulatory bodies.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Matthew Hill', with a stylized flourish at the end.

Matthew Hill
Chief Executive

Chair's Report on Visits and External Meetings from June - September 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:

4 June	Met with Independent Audit for Board review interview
17 June	Attended Chairs' Committee meeting
1 July	Attended meeting with Independent Audit on Board review report
9 July	Panel member for the recruitment of a Vice-Chair for Finance Committee
15 July	Attended Board away-day
23 July	Attended the Honourable Society of Gray's Inn Treasurers' Reception
27 July	Attended the Honourable Society of Lincoln's Inn Garden Party
21 September	Attended Board briefing meeting