

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 28 March 2019, 5.00 pm**

**Room 1, First Floor, Bar Standards Board Offices,
289-293 High Holborn, London, WC1V 7HZ**

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			
	• 31 January 2019	Annex A	Chair	3-5
5.	a) Matters arising and action points	Annex B	Chair	7
	b) Forward agenda	Annex C	Chair	9
6.	Strategy 2019-2022 and Business Plan 2019-2020 (5.05 pm)	BSB 009 (19)	Oliver Hanmer	11-14
	• Annex 1 – Strategic Plan 2019-22			15-29
	• Annex 2 – BSB Risk Outlook 2019-22			31-49
	• Annex 3 – Business Plan 2019-20			51-63
	• Annex 4 – Research Plan 2019-20			65-66
7.	Amendment to Scheme of Delegations to give effect to the new Bar qualification rules (5.20 pm)	BSB 010 (19)	Christopher Young / Vanessa Davies	67-97
8.	Amendment to Standing Orders (5.30 pm)	BSB 011 (19)	Rebecca Forbes	99-100
9.	Chair's Report on Visits and External Meetings from Feb – March 2019 (*)	BSB 012 (19)	Chair	101
10.	Any other business (5.35 pm)			
11.	Date of next meetings			
	• Thursday 2 May 2019 (Board Away Day)			
	• Thursday 13 June 2019			
12.	Private Session			

John Picken
Governance Officer
JPicken@barstandardsboard.org.uk
21 March 2019

**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](mailto:John.Picken@barstandardsboard.org.uk) before the meeting.*

BSB 280319

<p>BAR STANDARDS BOARD</p>

REGULATING BARRISTERS

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

Thursday 31 January 2019, Room 1.1, First Floor

289 – 293 High Holborn, London, WC1V 7HZ

- Present:** Baroness Tessa Blackstone (Chair)
Naomi Ellenbogen QC (Vice Chair) – *by phone*
Alison Allden OBE
Lara Fielden
Steven Haines
Zoe McLeod
Andrew Mitchell QC
Irena Sabic
Nicola Sawford
Anu Thompson
Stephen Thornton CBE
- By invitation:** Richard Atkins QC (Chair, Bar Council)
Amanda Pinto QC (Vice Chair, Bar Council)
James Wakefield (Director, COIC)
Grant Warnsby (Treasurer, Bar Council)
Malcolm Cree CBE (Chief Executive, Bar Council) – *by phone*
Mark Hatcher (Special Adviser to the Chair of the Bar Council)
- BSB Executive in attendance:** Joseph Bailey (Senior Policy Officer) – items 1 - 6
Vanessa Davies (Director General)
Oliver Hanmer (Director of Regulatory Assurance)
Sara Jagger (Director of Professional Conduct)
Andrew Lamberti (Communications Manager)
Ewen Macleod (Director of Strategy and Policy)
Amit Papat (Head of Equality & Access to Justice)
John Picken (Governance Officer)
Wilf White (Director of Communications and Public Engagement)
- Press:** Neil Rose (Legal Futures)
Max Walters (Law Society Gazette)

Item 1 – Welcome

1. Tessa Blackstone welcomed those present to the meeting and introduced the new attendees (Irena Sabic, Amanda Pinto QC and Grant Warnsby).

Item 2 – Apologies

- Aidan Christie QC
- Adam Solomon QC
- Kathryn Stone

Item 3 – Members' interests and hospitality

3. Nicola Sawford made a declaration of hospitality ie a Christmas lunch on 11 December 2018 hosted by the Legal Practice Management Association (LPMA).

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 22 November 2018.

Item 5a – Matters arising and action points (Annex B)

5. The Board noted the updates to the action list. In response to a question from Nicola Sawford, Sara Jagger confirmed that the application to the LSB on revised Enforcement Decision Regulations remains on track. However the implementation programme may yet be delayed due to operational factors.

Item 5b – Forward Agenda (Annex C)

6. Members noted the forward agenda list.

Item 6 – Approval of New Transparency Rules

BSB 001 (19)

7. Joseph Bailey introduced the report and referred to a tabled paper that:
- suggested alternative wording for outcome oC36 of the draft rules;
 - gave two options for a further revision to rule C159 concerning publication of information.
8. The Board commented as follows:
- the alternative wording for outcome oC36 is supported;
 - the second option for rule C159 is preferable as this omits direct reference to the cab rank rule that would otherwise be confusing for non-barristers;
 - the guidance for barristers also needs to clarify the requirement to “*provide information about the factors which might influence the timescales*”. As worded, the meaning of this is too open to different interpretation;
 - we risk an unintended consequence in not seeking price transparency requirements for cases concerning child arrangements arising from divorce or separation. This could be to push clients to the unregulated sector where fee rates are more visible eg for McKenzie Friends.
9. In response to the latter point, Ewen Macleod suggested that this was not a matter for the rules but the associated policy statement and this could be reviewed following approval of the new rules. In response to other questions, the Executive confirmed that:
- the supplementary guidance for barristers on the transparency rules could also be hosted on chambers’ websites for the equal benefit of clients;
 - the reference to making information available in “alternative format” means meeting the requirements of the Equality Act in this respect.
10. **AGREED**
- a) to accept option 2 of the tabled paper in respect of revising the draft rule C159 and to approve the alternative wording for outcome oC36.
 - b) to approve the publication of the new transparency rules subject to clarifying the guidance as mentioned above (cf. min 8).

**JB to
note
JB**

Item 7 – Diversity at the Bar Report

BSB 002 (19)

11. The Board considered the draft annual report on the diversity of the barrister profession. Disclosure rates continue to rise, though in several categories these remain lower than we would wish. The Executive commented as follows:
- the data at Table 5 in the report contain several inaccuracies due to transcribing errors. These will be corrected in the final published report;
 - we have no formal benchmarks for disclosure rates, though the BSB has looked at other sectors for comparisons. A reasonable target is 50% or more disclosure for all equality strands;

Part 1 - Public

- the introduction of the MyBar portal may improve disclosure rates over time because e&d data collected as a pupil will transfer across when a barrister later begins to practise.
12. Board Members commented as follows:
- in future, the questions on gender identity and sexual orientation could be more open, allowing respondents to answer in their own words rather than against pre-selected tick boxes. Stonewall has some useful guidance on styles to adopt;
 - benchmarking data for Chart 8 (type of school attended) needs to be expressed more clearly.
13. **AGREED**
- a) to publish the Diversity at the Bar report subject to amendment of Chart 8 (cf. min 12). **AP**
- b) to review the presentation of future questionnaires taking into account the above comments on gender identity and sexual orientation **AP to note**
- Item 8 - Chair's report on visits and external meetings (Dec 2018 – Jan 2019)**
BSB 003 (19)
14. The Board **noted** the report.
- Item 9 – Any Other Business**
15. None.
- Item 10 – Date of next meetings**
16. • Thursday 28 March 2019 (Board to Board with LeO, 3.45 pm – 5.00 pm and BSB meeting, 5.00 pm – 7.00 pm)
- Item 11 – Private Session**
17. 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 – 22 November 2018;
 - (2) Matters arising and action points – Part 2;
 - (3) GRA update report;
 - (4) Potential rule change following consultation (sexual orientation and religion and belief data);
 - (5) Strategy 2019-2022 update;
 - (6) Quarterly Strategic update;
 - (7) Proposed LSB Internal Governance Rules – new operating model;
 - (8) Any other private business.
18. The meeting finished at 5.30 pm.

**BSB – List of Part 1 Actions
28 March 2019**

(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
10b (31/01/19) – new transparency rules	amend and publish the new transparency rules	Joseph Bailey	immediate	01/02/19	Completed – press release issued and rules published
13a (31/01/19) – annual diversity report	amend and publish the Diversity at the Bar report	Amit Popat	immediate	01/02/19	Completed – press release issued and rules published
9b (25/10/18) - Modernising regulatory decision making –revised Standing Orders / BSB Handbook Regulations	seek a rule change application with the LSB for proposed revisions to the Enforcement Decision Regulations and the associated consequential amendments to the BSB Handbook	Sara Jagger	by early Feb 19	8/03/19	Change to deadline – the implementation date for the Regulatory Operations arrangements has been put back to October, the submission of the LSB rule change application has accordingly also been put back. It is now due to be submitted in April.
				18/01/19	Ongoing – draft application in progress - -due to be discussed with LSB in early February prior to formal submission in mid/late February depending on LSB response to draft.
				13/11/18	Change to deadline – as the new Regulatory Operations arrangements are not now due to be come into force until 1 June 2019, the application to the LSB is scheduled for early February 2019.
9b (27/09/18) - Annual Enforcement Report 2017-18	engage with stakeholders to improve access to information for litigants-in-person about the UK legal system including the adversarial nature of the barrister’s role	Wilf White	before Aug 19	22/01/19	Ongoing – articles accepted by Legal Choices for May and August the first on transparency and the second on litigants in person
				13/11/18	Ongoing – Wilf White has spoken to the Legal Choices Steering Group and it has been agreed that the BSB will contribute two articles to the site this year one of which will cover this issue. Date not yet finalised but perhaps April.

Forward Agendas

Thursday 2 May 19 (BOARD AWAY DAY)

- Risk Index 2019 and appetite setting

Thursday 13 June 19

- End of Year Performance Report – PRP Committee
- Strategic update from the Director General
- EIA of Equality Rule

Thursday 18 Jul 19

- Corporate Risk Report (summary)

Thursday 26 Sept 19

- Strategic update from the Director General
- Consolidated Risk Report (summary)
- Regulatory Operations – approval of update Scheme of Delegations and Commissioner’s prospective sub-delegations
- Scope of practice consultation response
- 2018/19 Enforcement Report (summary)

Thursday 31 Oct 19

- GRA Annual Report
- Mid Year report – PRP Committee

Thursday 28 Nov 19 (BOARD AWAY DAY - incl Joint Meeting with the LSB 1.00 pm – 2.30 pm (pending confirmation with LSB)

Thursday 30 Jan 20

- Strategic update from the Director General
- Corporate Risk Report (summary)
- Annual Diversity Data Report
- CPD evaluation report

Thursday 26 Mar 20

- Strategic update from the Director General
- Consolidated Risk Report
- Agree scope of Handbook review

Meeting:	Bar Standards Board	Date:	Thursday 28 March 2019
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Title:	Strategy 2019-2022 and Business Plan 2019-2020		
Author:	Oliver Hanmer		
Post:	Director of Regulatory Assurance		

Paper for:	Decision: <input checked="" type="checkbox"/>	Discussion: <input type="checkbox"/>	Noting: <input checked="" type="checkbox"/>	Other: <input type="checkbox"/> (enter text)
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Recommendation(s)

1. Members of the Board are invited to:
 - a. **Approve** the Strategy for 2019-22 and the associated Risk Outlook;
 - b. **Approve** the Business Plan for 2019-20 and **note** the supporting Research Plan
 - c. **Approve** the new organisational values

Executive Summary

2. The new BSB strategy for 2019-22 and associated Risk Outlook have been the subject of external consultation and detailed discussion by the Board and the executive. The final version of the Strategy is at Annex 1 and the Risk Outlook at Annex 2 for approval.
3. The executive has undertaken a detailed analysis of the activities that need to be carried out in 2019-2020, the first year of the new strategy. The Business Plan for 2019/20 was discussed and supported by PRP at their March meeting. The Board is asked to approve the Business Plan at Annex 3. In support of the Plan, a Research Plan has been prepared and this is attached at Annex 4. The Board is asked to note this Plan.
4. The organisational values have been updated following the Board's discussion at its last meeting and further review by the executive and PRP. The Board is asked to approve the new values.
5. The Strategy, Risk Outlook and Business Plan will be published following Board approval.

Risk

6. The Strategy and Business Plan have been drafted with reference to the proposed Risk Outlook themes. We have identified no risks to the introduction of the strategy through our engagement during its development.

Resources (Finance, IT, HR)

7. The development of the Business Plan has included an analysis of resourcing requirements set against the budget for 2019/20. Activities have been prioritised to ensure that the Plan can be delivered within the budget.

Equality & Diversity

8. The strategy has been the subject of equality assessment. No negative impacts were identified, and none were raised during the consultation process. Business Plan activities will be the subject of separate equality impact assessment as required.

Strategy 2019-2022 and Business Plan 2019-20

Strategy and Risk Outlook 2019-22

1. The Strategy for 2019-2022 has been the subject of external consultation and consideration by both the Board and the BSB executive. The final version is attached at Annex 1 for approval. The associated Risk Outlook 2019-2022 is attached at Annex 2 for approval.

Business Plan 2019-20

2. The 2019-20 Business Plan sets out the planned activity in the first year of the new strategic plan. The Plan breaks down these activities against each of the three strategic aims and includes both core business as usual regulatory activity and projects and programmes.
3. The Executive has undertaken a detailed exercise to establish the activities for 2019/20, using the new strategic plan as its point of reference as well as ensuring that activities that continue from 2018/19 are reflected. A prioritisation exercise has been undertaken and activities are therefore targeted and focussed and can be tracked back to the strategy (and in turn the Regulatory Objectives in the Legal Services Act). This exercise also ensures that the BSB operates within its budget and utilises its resources to the best effect. Where possible, activities have been phased across the year to provide for the most efficient use of resources and to minimise overloading staff and the risk therefore of activities not being delivered on time.
4. The Business Plan is used as the basis for assessing our regulatory performance, with reports measuring delivery against the published Plan provided quarterly to the Performance, Resource and Planning (PRP) Committee and six monthly to the Board.
5. PRP reviewed the 2019-20 Business Plan at its meeting in March and the Board is now asked to approve the final version attached at Annex 3. A Research Plan in support of the Business Plan is attached at Annex 4 for noting.

Organisational values

6. The Board discussed proposed organisational values at its last meeting. In the light of comments received, the values have been revised. We have also paired the values which we think gives them more impact and focus. The values were discussed and agreed with PRP at its March meeting. The new values, and supporting descriptor, are set out below:

Fairness and Respect

- *we strive to achieve equal access and equal treatment, valuing and respecting our differences*

Independence and Integrity

- *we are objective and evidence-based, open, honest and accountable, and we expect everyone to meet these same ethical standards.*

Excellence and Efficiency

- *we are committed to learning and improving, seeking to maximise our effectiveness by making the best possible use of our resources*

7. The Board is asked to approve the values.

Publicity

8. The Strategy, Risk Outlook, Business Plan and Research Plan will be published on the website following Board approval.

Annexes

1. Annex 1 – Strategy 2019-22
2. Annex 2 – Risk Outlook 2019-22
3. Annex 3 – Business Plan 2019-20
4. Annex 4 – Research Plan 2019-20.

Lead responsibility

Vanessa Davies, Director General

Strategic Plan

2019-2022

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

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

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Foreword by the Chair



I am pleased to introduce the Bar Standards Board's (BSB's) Strategic Plan for the period starting in April 2019 and ending in March 2022.

This Plan follows on from a strategic period which saw us introduce a number of new policy initiatives such as our reforms to the rules governing Bar training and to our disciplinary and enforcement processes, and our new transparency rules in response to the report of the Competition and Markets Authority. Our key priority must now be to ensure that those reforms are successfully implemented and evaluated so the next three years will involve fewer new policy initiatives, fewer consultations and fewer rule changes.

It will also be a period in which we will continue to focus much of our energy and resources on our **core regulatory activities**.

As the regulator of the Bar in England and Wales, these core activities include, overseeing the education and training requirements for becoming a barrister, monitoring the standards of conduct for barristers, and assuring the public that everyone we authorise to practise is competent to do so. We do this by supervising the practice of barristers and the specialist legal services businesses which we regulate. We deal with any

information we receive which might indicate that those we regulate may not be following our rules and, where necessary, we take appropriate regulatory action. This day-to-day work accounts for most of what we do.

We also want to examine some important areas, such as **how technology is changing legal practice and the justice system**, and the impact of other developments, including the **changes to legal aid**, on the achievement of our statutory objectives.

This Plan also emphasises our duty **to promote a strong and diverse profession**. Our work alongside the profession to make sure that the Bar fully represents the society it serves will continue. There has been much progress in this area in recent years, but more needs to be done, including in the areas of our work designed to eliminate all forms of discrimination and harassment at the Bar.

During this three-year strategic period, we are also committing ourselves **to reviewing the BSB Handbook** – the document which includes the Code of Conduct for barristers and the rules with which they must comply. We want to make sure that it remains fit for purpose, relevant and accessible.

All the above are reflected in our three strategic aims for 2019-22 which are:

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

You can read more about these aims and how we decided them in the remainder of this document.

We base all our regulatory activities – including how we agree our strategic priorities - on **risk**. We take an **evidence-based approach** to determining the priority risks and allocate our resources where we think they would be most effective in addressing them. So if you want to gain a deeper understanding of how we settled on the strategic priorities outlined in this Plan, you should read our latest Risk Outlook [\[LINK\]](#) on the market for barristers' services which we published simultaneously with this Strategy.

We are committed to providing **value-for-money** to the profession which funds us in everything that we do. We practise sound financial management so that we limit our demands on the share of their Practising Certificate Fees that comes to us.

We seek to regulate in a way that is **transparent, accountable, proportionate, consistent** and **targeted**. I hope you agree that this Strategic Plan is a good foundation from which to do this over the next three years.



Baroness Blackstone, Chair,

The Bar Standards Board

1. Introduction

As the regulator of the Bar in England and Wales, our strategic aims for the 2019-22 period reflect the key risks that we have identified in the market for barristers' and advocacy services. These have played a significant role in helping us to prioritise our resources during the period of this Strategic Plan.

We sought views on these risk themes and our strategic aims during [a consultation](#) in late 2018. This Plan reflects the Board's consideration of the responses we received to the consultation.

This Strategic Plan should be read in conjunction with our Risk Outlook [\[LINK\]](#) on the market for barristers' services, because the risk themes which we have identified in the Outlook are the basis on which we have prioritised our work for the 2019-22 strategic period.

The three risk themes in the Outlook are:

- working cultures and professional environment inhibit an independent, strong, diverse and effective profession;
- innovation and disruption in the legal services market offer threats and opportunities for the profession and for the public; and
- affordability and lack of legal knowledge threaten access to justice.

The Risk Outlook provides the evidence for why we believe these risk themes are so significant, and why we will be focusing our regulatory attention on them in the period ahead.

You can read more about our approach to risk-based regulation including information about how we categorise and assess risks in section 3 of this Plan and on our website. [\[LINK TO UPDATED WEBPAGE ON RISK\]](#)

Our strategic aims for 2019-22 are:

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

This Strategic Plan outlines the regulatory activities we propose to undertake to underpin these aims, and their expected outcomes. It also explains that we plan to focus much of our attention during 2019-22 on implementing and consolidating the policy work we have already undertaken. This includes our reforms to the rules governing education and training for the Bar, our responses to the Competition and Markets Authority's (CMA's) market study of legal services, and the introduction later this year of our new Independent Decision-making Body (IDB) which is part of our broader changes to modernise our regulatory decision-making.

Our day-to-day work to regulate the Bar will continue during 2019-22. This includes supervising barristers' chambers, assessing barristers' professional conduct and taking appropriate disciplinary action against barristers who breach the Code of Conduct set out in the BSB Handbook, complying with statutory equality and diversity responsibilities, and a range of tasks associated with overseeing the qualification of new barristers.

You can read a full list of our planned high-level regulatory activities within section 5 of this document. Highlights from these planned activities include:

- implementation and evaluation of the Future Bar Training reforms;
- a proportionate and targeted review of the BSB Handbook to ensure that it remains fit for purpose, relevant and accessible;
- implementing our equality and diversity action plans, working in partnership with others;
- understanding the well-being of the profession and the way in which it influences our approach to regulation;
- research and evidence gathering on the changing shape of the legal services market and of the delivery of services by barristers (and in particular the impact of legal aid reform and technology); and then, refining our regulatory approach to meet the risks and opportunities identified; and
- contributing to public legal education so that the public have better access to information about the legal sector, barristers and the services that they provide.

For each year of this Strategic Plan, we will publish an annual Business Plan to outline in more detail which activities we will undertake and when. The 2019-20 Business Plan is available here. [\[LINK\]](#)

2. Background to the strategy and its development

The BSB has changed since we published our last Strategic Plan in 2016.

Our Governance Reform Programme has devolved regulatory decision-making to the Executive, cutting bureaucracy and improving our ability to be flexible.

Other regulatory reforms such as changes to our supervision activities, oversight of Continuing Professional Development (CPD), and implementation of both entity and alternative business structure (ABS) regulation have already been integrated into our business as usual activity. Further programmes of reform such as Future Bar Training (FBT) and Modernising Regulatory Decision Making will be completed shortly and implemented during 2019.

2016-19 was a period of change for the BSB. This next strategic period is an opportunity to consolidate these changes and evaluate the impact of our regulatory interventions, whilst continuing to evolve and to improve our regulation within the resources we have available.

In arriving at the three strategic aims and the activities which we will undertake to

meet them, we have been mindful of the need to restrict ourselves to areas which are within our clear regulatory control or direct influence. For example, “advancing access to justice in a changing market”, is a very broad but vital aim which is also shared by many other organisations including the other legal regulators. For these reasons, our work in this area will focus only on aspects that we can influence as the regulator of the Bar in the hope that if we are successful in our sphere of influence, this will play a part in improving access to justice more broadly.

Our strategic aims and the scope of our planned regulatory activities to bring them about have been set against the budget we are likely to have available to us during the three years of this Strategic Plan. This is an important point of context when considering our aims, because, as always, we aim to restrict any increases in the amount of funding we raise from Practising Certificate Fees (PCFs) to the minimum necessary to discharge our responsibilities and to do our work properly.

3. Risk-based regulation

The overriding aims of the BSB – and therefore the guiding force for our Strategic Plans - are set by the Regulatory Objectives laid down in the Legal Services Act 2007. We share these Regulatory Objectives with the other legal services regulators. 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.

The professional principles are that:

- authorised persons should act with independence and integrity;
- authorised persons should maintain proper standards of work;
- authorised persons should act in the best interests of their clients;
- persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court,

by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice; and

- that the affairs of clients should be kept confidential.

The Legal Services Act requires us to regulate in a way that is transparent, accountable, proportionate, consistent and targeted. We also have a statutory responsibility under the Regulators' Code to base our regulatory activities on risk, taking an evidence-based approach to determining the priority risks, and allocating our resources where we think they would be most effective in addressing those priority risks.

To achieve this, we are constantly monitoring the market for barristers' services. We identify all the potential risks that could prevent the Regulatory Objectives from being met and focus our attention on those risks that we think pose the biggest threats to the public interest. We then take action either to try and prevent those risks from occurring in the first place, or to reduce their impact, or to deal with any risks that have already occurred.

Our Regulatory Risk Framework describes how we approach the delivery of our Regulatory Objectives. We have then categorised those things which can go wrong in the delivery of these services in our Regulatory Risk Index. We also publish a Regulatory Risk Outlook which presents evidence for the risk themes we consider will be most significant in the coming years, which in turn, helps us determine the areas which require most of our regulatory attention.

4. Additional statutory duties

In addition to the Regulatory Objectives in the Legal Services Act 2007, the BSB is subject to a number of other statutory duties which must be taken into account when we prioritise our strategic aims.

The BSB (as the independent body through which the General Council of the Bar carries out its regulatory functions) is a public body for the purposes of the Equality Act 2010 and is bound by, and

committed to, meeting the requirements of the general, and specific, public sector equality duties. You can read more about how we respond to these duties in our Equality and Diversity Strategy 2017-19.

We also have an oversight regulator, the Legal Services Board, which sets out the standards with which we must comply.

5. Our Strategic Aims – 2019-22

The aims for our 2019-22 Strategic Plan are:

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

This aim is premised on the considerable changes which the BSB made to its regulatory approach in the previous strategic period. It recognises there must be a period of consolidation, allowing regulatory reforms and new business processes to bed-in, and to have the impact of those reforms monitored and evaluated. The focus here is thus on the efficient delivery of our core regulatory activities and the management of our corporate performance and governance.

This aim includes several high-priority objectives that are essential to good regulation such as evaluation activities for our major regulatory interventions, a review of our approach to supervision and an update to chambers' risk-ratings. We will also continue, under this aim, to review and refine our regulatory approach and governance to ensure that our regulation is accessible, proportionate and targeted, and our ways of working are such that we deliver high-quality, agile regulation. This will include a review of the BSB Handbook and its role in providing proportionate regulation for barristers.

Activities

Broad activity areas under this aim will include:

- core regulatory activity including enforcement and authorisation;

- implementation and evaluation of the Future Bar Training reforms and the Authorisation Framework under which training providers will be authorised by the BSB;
- a proportionate and targeted review of the BSB Handbook to ensure that it remains fit for purpose, relevant and accessible;
- improving the way in which we communicate with the profession and the public;
- a refresh of the risk profile of chambers used to determine the level of supervision each one requires; and
- completion of our governance reform programme, and the delivery of our corporate services function.

Outcomes

In the light of these activities, at the end of the three-year strategy we expect to have:

- an agile and proportionate approach to how we regulate so that we can continue to maintain good levels of performance against the standards we set for ourselves;
- an updated approach to supervising barristers - and the chambers and practices within which they operate - that encourages them to meet the regulatory and ethical standards we expect of them and limits our regulation to where the evidence we have collected indicates it is most needed;

- implemented changes to the system for educating and training barristers and put in place an Authorisation Framework that enables us to accredit and supervise training providers and the limited number of training pathways permitted within the new Bar training rules to qualify as a barrister;
- have a BSB Handbook that is both accessible and proportionate whilst providing clarity to barristers about what we expect of them; and
- a governance structure that reflects good practice, knows how the organisation is performing and provides rigorous and evidence-based management and challenge.

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

The Bar is not yet fully representative of the wider population. We have made progress over the last three years towards understanding the diversity of the profession but there is more work to be done. There is compelling evidence that discrimination and harassment are a problem for many in practice.¹ There is growing understanding of the potential impact that the culture of the Bar may have on opportunities for barristers to develop and make progress in their careers.

Through this strategic aim we will continue to improve our understanding of the factors that influence diversity within the profession and the role that we, as the regulator, can play to help improve diversity. We will also seek to understand the impact that the pressures of practice at the Bar have had on professional standards and competence. In particular, we will want to make sure that our regulatory arrangements that have an impact on well-being and culture at the Bar are both supportive and proportionate and do not stand in the way of professional accountability and responsibility or duplicate the work of others, such as the Bar Council.

Activities

Broad activity areas under this aim will include:

- implementing our equality and diversity action plans, working in partnership with others;
- understanding the well-being of the profession and the way in which it influences our approach to regulation; and
- a more nuanced approach to regulation in the light of this understanding and in our supervision of chambers, including for example piloting new approaches to handling incidents of harassment (including sexual harassment).

Outcomes

In the light of these activities, we will at the end of the three-year strategy expect to:

- understand the factors that influence diversity at entry to, and within, the profession and have put in place regulation which helps support diversity at the Bar and removes barriers to entry and progression;
- have in place our new approach to regulating incidents of harassment;
- have evidence of the level of compliance with regulatory requirements relating to equality and diversity and have in place targeted regulatory action to address areas of high-risk and non-compliance;
- be seen as a regulator that influences, directly or indirectly, change in the diversity of the profession and which has constructive relationships across the sector to support us in that aim;
- have established regulatory arrangements that enable us to respond positively and proportionately to the demands of the changing culture and diversity of the profession; and
- have in place staff that are trained and skilled, and regulatory arrangements that enable us, to respond positively and proportionately to the demands of the changing culture and diversity of the profession.

This aim addresses in particular the first theme identified in the new Risk Outlook: “Working cultures and professional environment inhibit an independent, strong, diverse and effective profession”.

Aim 3 – advancing access to justice in a changing market

Promoting access to justice is an important area for the BSB as a public interest body and is one of our statutory Regulatory Objectives. But the BSB is only one (small) player in a complex policy environment and has a remit with specific boundaries as a regulator. There is considerable evidence that shows that poor public understanding of legal rights and duties is already a significant barrier to access to justice, as is the high cost of services. This has been compounded by recent reductions in legal aid funding and eligibility. The extent of change in the legal services market (both how services are sought and delivered) is likely to cause significant disruption throughout the three-year period.

Through this strategic aim we will develop our understanding of the way in which technology and other innovations are changing the way in which legal services are provided and the administration of justice is delivered, and how that affects the public and barristers. We will seek to understand more about the standards and competences expected of barristers to meet the changing expectations of consumers and the court system and the role that we should play as a regulator. This includes, for example, understanding the risks to professional competence and ethics that arise from a more digital administration of justice and, in particular, the challenges that disclosure of digital evidence and new online courts impose. Whilst the BSB does not see its role as promoting innovation we must ensure that our rules and regulatory approach are flexible and adequate to both protect the public interest and enable innovation to take place in the market.

Activities

Broad activity areas under this aim will include:

- research and evidence gathering (undertaken where possible, collaboratively with other regulators or interested groups) on the changing shape of the legal services market and of the delivery of services by barristers (and in particular the impact of legal aid reform and technology); refining our regulatory approach to meet the risks and opportunities identified;
 - contributing to public legal education to enable the public to have better access to information about the legal sector, barristers and the services that they provide
 - assuring the standards of practice of barristers (generally and against the backdrop of changing consumer needs);
 - understanding the role of unregistered barristers and barrister intermediaries in meeting consumer needs (and therefore the role that the BSB should play in regulating them);
 - evaluating the impact of our regulatory response to the CMA report;
 - assessing the consequences of any Brexit for the regulation of barristers in England and Wales; and
 - assessing whether our regulatory arrangements, based on evidence gathered, stand in the way of innovation and, if so, what our regulatory approach should be.
- externally driven measures and controls help barristers to maintain their professional competence;
 - through targeted research, understand the impact of changes to legal aid funding and published our research on the consequences of those changes on the Regulatory Objectives.
 - developed our understanding of how the profession has innovated in the delivery of legal services, especially in relation to technological change, and what this means for how we regulate. Unnecessary regulatory barriers to innovation that have been identified will have been removed (or be in the process of being removed);
 - improved the information that is provided to the public about barristers and the services that they provide
 - improved our understanding of unregistered barristers and barrister intermediaries and the way in which they provide legal services to consumers, what risks arise as a result and what a proportionate regulatory response looks like;
 - assessed whether our response to the CMA report has had the desired impact in improving transparency for consumers and taken steps to make changes in the light of that assessment; and
 - as far as possible, understood the impact of any Brexit decision on the way in which we regulate barristers in England and Wales.

Outcomes

In the light of these activities, at the end of the three-year strategy we expect to have:

- through our assurance of competence and quality, robust evidence that our regulatory interventions are properly targeted and that
- This aim addresses two of the themes identified in the new Risk Outlook:
 - affordability and lack of legal knowledge threaten access to justice; and
 - innovation and disruption in the legal services market offer threats and opportunities for the profession and for the public.

6. Further reading

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

- Risk-based regulation is an integral part of how we regulate the Bar and how we develop our strategy. You should read our Risk Outlook [\[LINK\]](#), our Risk Framework [\[LINK\]](#) and our Risk Index [\[LINK\]](#) to understand more about this aspect of our work and to gain a better understanding of how we arrived at the strategic aims described in this Plan.
- Our governance structures are designed to oversee how we implement the work described in this strategy. You can [read more about our governance on our website](#).
- More information about our work around [equality and diversity can be found on our website](#).
- [Our organisational values](#) describe the way in which we conduct all our work including the activities described in this Plan.
- And finally, as previously stated, you can read more detailed information our tactical activity plans in our annual business plans. You can read our 2019-20 Business Plan here [\[LINK\]](#). It also contains information about our budget for 2019-20.

Contact us:

Bar Standards Board
289-293 High Holborn
London WC1V 7HZ

Tel: 020 7611 1444
Fax: 020 7831 9217

Email: ContactUs@BarStandardsBoard.org.uk

Twitter: [@BarStandards](https://twitter.com/BarStandards)

Youtube: [/barstandardsboard](https://www.youtube.com/barstandardsboard)

LinkedIn: [/thebarstandardsboard](https://www.linkedin.com/company/thebarstandardsboard)

BSB RISK OUTLOOK 2019-22

Introduction

As the regulator of barristers and specialist legal businesses in England and Wales, we have a statutory duty to ensure that our regulatory objectives are met. We do this independently of the profession and we do it based on the concept of risk. We call it “risk-based regulation”.

How we use risk-based regulation is explained in the Risk Based Regulation pages of our website and in detail in our Risk Framework, which should be considered alongside this Risk Outlook.

The Risk Outlook, often referred to as simply the “Outlook”, contains our assessment of the biggest risks to our regulatory objectives over the next few years. Accordingly, our Outlook focuses on issues relating primarily to the provision of services traditionally provided by the Bar, such as court-based advocacy and litigation, and specialist legal advice. However, because the regulatory objectives are wide-ranging, there are many different risks which could prevent these objectives from being achieved. We need, therefore, to consider the wider legal services market because the people we regulate are just one part of the inter-connected legal system in England and Wales.

The Outlook is where we summarise the evidence and analysis of the risk themes we think could be the biggest threats to the regulatory objectives. This allows us then to focus our attention on the areas where we can make the biggest difference as a regulator, thereby supporting our regulatory focus for the coming years.

We regulate in a fast-moving environment. Things change. New evidence comes to light. New threats to the regulatory objectives emerge and others recede. The Outlook, therefore, is only a snapshot in time, and we will continue to keep the risk index and our regulatory response to those risks under review.

The 2019 Outlook is our second Outlook publication. An archived version of our first Outlook which we published in 2016, is available on our website.

What is in the Risk Outlook?

The 2019 Outlook identifies the following three priority risk themes:

- working cultures & professional environment inhibit an independent, strong, diverse and effective profession;
- affordability and lack of legal knowledge threaten access to justice; and
- innovation and disruption in the legal services market offer threats and opportunities for the profession and for the public.

The Outlook explores key areas of risk to achieving the regulatory objectives, and for each one looks to set out:

- why we think it matters;
- the evidence;

- our role as the regulator.

The Outlook is not designed to set out in detail what regulatory action (if any) we will be taking to address the risks identified or to provide milestones for relevant initiatives. This information is contained within our Strategic Plan for 2019-22 and our annual Business Plans.

How has the Risk Outlook been developed?

The 2019 Risk Outlook builds on the evidence and analysis we have undertaken since producing our 2016 Risk Outlook.

We began by considering the full range of risks to our regulatory objectives identified in our Risk Index, developing a process that allows us to consider the evidence for those risks, along with the likelihood of them occurring and the impact they may have. We were then able to bring together some of the recurring themes into proposed priority areas for action. Following preliminary analysis, our leadership team, Board and Committee members further refined this prioritisation and settled on the three themes described in this Outlook. These were then researched in more detail.

We also sought external views on the three proposed risk themes, our proposed prioritisation and a draft version of the Outlook in a consultation between October and December 2018.

The final Outlook brings these various sources together to describe the most significant risks present in the market.

All other risks in the Index will continue to be the subject of business as usual activity.

What is the purpose of the Risk Outlook?

The purpose of the Risk Outlook is to:

- guide the development and prioritisation of our regulatory activities;
- share our insights and expertise concerning areas of significant risk; and
- support our ongoing engagement with our stakeholders.

We will continue to monitor the areas selected for analysis in this Outlook in line with our risk-based approach to regulation. This will enable us to see how our own activities and other market changes impact the risk landscape. To find out what action we are taking to address the risks we have highlighted, please read our Strategic Plan for 2019-22.

Theme 1 - Working cultures and professional environment inhibit an independent, strong, diverse and effective profession.**The theme in brief and why we think it matters**

Our statutory objectives require us to promote a strong, independent, diverse and effective legal profession. It is important, therefore, that the Bar is diverse and that its practices are non-discriminatory and culturally aware. If they are not, then some in society may not be confident in the legal system's ability to provide them with justice.

Although progress is gradually being made, the Bar remains unrepresentative of the population that it serves in relation to several protected characteristics. The strongest evidence is for gender and ethnicity, where the Bar remains unrepresentative overall, and particularly at the more senior levels, despite gradual progress. Examples of potentially discriminatory practices, such as in recruitment and work allocation, have been highlighted in recent research findings, and there is also strong evidence that discrimination and harassment are a problem for many at the Bar, particularly women.

The working culture within some parts of the Bar and the prevailing professional environment, in which barristers face many demands and must work under considerable pressure, can affect barristers' general wellbeing. Survey evidence relating to wellbeing (although more limited) suggests that the Bar is a high stress occupation, and many find a work-life balance difficult, particularly in certain areas of practice (such as crime and family). This can discourage some people from becoming barristers in the first place or lead to others leaving the profession early. If these issues are not addressed, they could undermine the efforts being made within the profession to make it more diverse.

Evidence*Diversity within the profession*

The most recent figures on the diversity of the Bar were published in January 2019.¹ While the diversity of barristers is improving, the statistics indicate that there is some way to go before the Bar is fully representative of the public it serves.

For example, the percentage of Black, Asian and Minority Ethnic (BAME) barristers across the profession is broadly representative of the general population (13 per cent of the Bar compared to 14 per cent of the UK population according to the 2011 census). However, BAME barristers form a smaller percentage of the more senior levels of the Bar, with the percentage of BAME Queen's Counsel standing at 7.8 per cent. This suggests there may be an issue around the progression of BAME practitioners at the Bar.

While women make up 51 per cent of the population, they make up only 37.4 per cent of the practising Bar. This reduces further as we go into the senior levels of the profession, with 15.8 per cent of Queen's Counsel being women.

¹ Bar Standards Board (2018) *Diversity at the Bar*

While the BSB does not hold reliable data on protected characteristics beyond gender, ethnicity and age (due to low levels of disclosure of these data by the profession) what data we have suggests that other groups are also underrepresented at the Bar. Of those who provided information on disability to the BSB, 5.9 per cent of non-QC barristers, 7.7 per cent of pupils, and 2.9 per cent of QCs, had a declared disability. In comparison, 12 per cent of the employed working age population has a declared disability as of July-September 2018². Similarly, of those that provided information on school attended, around 33 per cent of the practising Bar attended an independent school in the UK, compared to approximately 7 per cent of the wider population³.

Mental health and well-being

Surveys of the Bar suggest that being a barrister generally involves working long hours and facing considerable pressure to the extent that many barristers have difficulty balancing their work and home lives. A 2013 survey showed that the average hours worked by full-time practising barristers is 52 hours per week⁴ as compared to 42 hours for all full-time employees in the UK.⁵ A more recent survey suggested the majority (60 per cent) were not happy with their working hours, an increase from 51 per cent when asked the same question in 2013.⁶ Only 45 per cent of barristers surveyed felt able to balance their home and working lives, and only 26 per cent said they were not under too much work pressure (compared to 33 per cent in 2013). Barristers practising in criminal and family law said they were struggling the most with work-life balance – 48 per cent of criminal and 58 per cent of family barristers said they could not balance their home and work lives adequately.⁷

Bullying and Harassment

There is also evidence of barristers experiencing bullying and harassment. The 'Working Lives' survey⁸ indicated that 34 per cent of BAME barristers said they had personally experienced bullying, discrimination or harassment in the last two years, in contrast to 19 per cent of white barristers. This represented a marked increase from when the same question was asked in 2013, when 25 per cent of BAME and 10 per cent of white barristers stated they had experienced discrimination or harassment. In the same research, 33 per cent of women report personal experiences compared with 12 per cent for men, and barristers declaring a disability were more than twice as likely to report personal experiences as non-disabled barristers (37 per cent compared with 19 per cent). For both groups, there had been a rise in the proportion who had experienced discrimination and harassment from the 2013 version of the survey. When the question is expanded to cover the course of a barrister's career, rather than merely the last two years, research suggests discrimination and harassment becomes more prevalent. So, for example, in the 2016 Women at the Bar survey,⁹ 40.2 per cent of female barristers reported

² HoC - *People with disabilities in employment - Nov 2018* and ONS – *UK Labour Market - Dec 2018*

³ Bar Standards Board (2018) *Diversity at the Bar*

⁴ Bar Council and Bar Standards Board (2013) *Barristers' Working Lives: A second biennial survey of the Bar*

⁵ Eurostat (2014) *Labour force survey overview 2013*

⁶ Bar Council (2018) *Barristers Working Lives 2017*

⁷ Bar Council (2018) *Barristers Working Lives 2017*

⁸ Bar Council (2018) *Barristers Working Lives 2017 – Harassment and Bullying Report*

⁹ Bar Standards Board (2016) *Women at the Bar*

experiencing harassment during their career, with BAME respondents and respondents with caring responsibilities more likely to experience this issue than other barristers.

Research into the experiences of LGBT practitioners at the Bar found that one third had experienced some form of bullying or harassment because of their sexuality. These data arguably suggest that homophobia is more prevalent at the Bar than in the general population, where research suggests one in five (19 per cent) of lesbian, gay and bisexual staff say they have personally experienced bullying or poor treatment at work in the last five years because of their sexual orientation.¹⁰

Discriminatory practices, for example within recruitment and work allocation

Available evidence suggests that certain groups within the profession face disadvantages when compared to their peers. Research undertaken by the BSB suggests that certain groups, in particular BAME students and students from lower socio-economic status backgrounds, face additional barriers in gaining access to the profession, and are less likely than white students with higher socio-economic status to gain pupillage. This research indicated that BAME graduates of the BPTC are roughly half as likely to obtain pupillage as white graduates with similar prior educational attainment – similarly, graduates with no parent with a degree are around two thirds as likely as graduates with at least one parent with a degree to obtain pupillage.¹¹ Research into the experiences of women in the profession suggests that many feel they are discriminated against, in particular relating to the allocation of work, and on returning from maternity leave.¹²

The evidence available suggests that BAME barristers, in general, are likely to earn less on average than white barristers. Although the degree of difference varies when years' experience and primary area of practice is taken into account, the general pattern is constant.

This table summarises barristers of 15 or more years of call, split by their primary area of practice, for each of the four most common primary areas of practice at the practicing Bar.

For each area of practice, a higher proportion of BAME barristers is in the lowest two income bands than white barristers, and a lower proportion is in the highest two income bands¹³.

Mentoring and support

	% in lowest two income bands	% in highest two income bands
Personal Injury		
BAME	14.30%	57.10%
White	9.00%	63.80%
Crime		
BAME	35.60%	12.00%
White	22.90%	20.70%
Family - Children		
BAME	29.60%	13.00%
White	18.60%	21.00%
Commercial		
BAME	19.30%	57.80%
White	13.00%	67.50%

¹⁰ Mason, M & Vaughan, S (2017) *Sexuality at the Bar*

¹¹ Bar Standards Board (2017) *Differential Attainment at BPTC and Pupillage*

¹² Bar Standards Board (2016) *Women at the Bar*

¹³ Footnote: Bar Standards Board data on the practising Bar, December 2018

73 per cent of respondents to a Bar Council survey on wellbeing (2015) stated that there was a sense of cooperation in their work environment most or all the time. However, only 16 per cent stated they had been involved in formal or informal mentoring programmes.¹⁴ However, a more recent Bar Council survey (2018) suggested a more positive picture regarding mentoring, with 31 per cent of all respondents involved in mentoring others either currently or in the past, while 47 per cent of the self-employed Bar are either supervising, or have supervised, pupil barristers during their careers.¹⁵ This is important as past research has highlighted the value of mentoring for women¹⁶ and BAME practitioners.¹⁷

Our role as a regulator

In addition to our regulatory objectives, we have statutory duties under the Equality Act 2010. Our core work as a regulator also requires us to enforce the standards of professional conduct expected of all barristers under the BSB Handbook.

As the regulator of the Bar, we have an important role in encouraging the profession to address these issues, to help it improve its working cultures, and to encourage a professional environment. This is a role we share with others and this is an area where important work is being led by the profession, in particular the Bar Council. We therefore seek to collaborate with others where we have shared goals.

The BSB Strategic Plan for 2019-22 sets out the following activity in response to this risk theme:

- i. Working in partnership with others to implement our equality and diversity action plans;
- ii. Understanding the well-being of the profession and the way in which it influences our approach to regulation; and
- iii. A more nuanced approach to regulation in the light of this understanding and in our supervision of barristers' chambers, including for example piloting new approaches to handling incidents of harassment (including sexual harassment).

¹⁴ Bar Council (2015) *Wellbeing at the Bar*

¹⁵ Bar Council (2018) *Barrister's Working Lives*

¹⁶ Bar Standards Board (2018) *Women at the Bar - exploring solutions to promote gender equality*

¹⁷ Bar Standards Board (2018) *Heads above the Parapet – How can we improve Race Equality at the Bar*

Theme 2: Innovation and disruption in the legal services market offer threats and opportunities for the profession and for the public

The theme in brief and why we think it matters

Innovation can drive change in the provision of services across the legal services market, and some changes could have a significant positive affect for those seeking access to justice. However, we need to improve our understanding of how innovation is disrupting the market, so that we can understand when and how it might result in threats to the public. We also need to understand the threats to the profession where these could have longer term impacts on the public.

As an example, significant technological reform of court proceedings could lead to greater efficiency in the provision of legal services, and to improvements in access to justice. The Ministry of Justice¹⁸ vision of the future includes courts and tribunals using online, virtual and traditional hearings, with more and more cases or parts of cases being carried out virtually or online, supported by an online form that will guide people through their application and the progress of their case. Such changes in working practices could lead to several risks to the delivery of legal services. These risks include additional burdens on the Bar arising from a greater expectation of technical competence, and the need for clients to have access to the technology required to enable them to engage with an online hearing, or to keep up with progress on their case.

Available evidence, although relatively limited, suggests that technologically-driven changes have already started to affect the profession. Further technological developments could bring the potential for significant changes in the way barristers' services are delivered. The legal services market is likely to be facing a period of considerable change and adjustment. Some parts of the profession may find it difficult to adapt rapidly to a changing legal services market. Should service providers be unable to adjust to changing realities, our regulatory objectives could be put at risk.

Considering these issues, we think there are threats to the public which could directly impact our regulatory objectives such as “improving access to justice” and “protecting and promoting the interests of consumers”. There is also a risk that the Bar is unable to take full advantage of the opportunities presented by these technological and other developments. This could lead to the public choosing unregulated or less well-qualified people to service their legal needs.

Evidence

Overall pace and extent of change across many aspects of practice at the Bar

Her Majesty's Courts and Tribunals Service is involved in an extensive period of modernisation and reform, involving large numbers of court closures and an increasing move towards 'digital courts'.

¹⁸ Ministry of Justice (2016) *Transforming Our Justice System*

All participants in a case, from the judge to the jurors, the Crown Prosecution Service and the defence, legal advisers and court staff, will soon become ‘digital by default’

Ministry of Justice¹⁹

Between May 2010 and November 2018, 162 out of 323 Magistrates’ courts have closed. 90 out of 240 County courts have closed. 18 out of 83 dedicated tribunal buildings have closed. 17 out of 185 family courts have closed and 8 out of 92 Crown courts have closed.²⁰ Parliament has raised concerns that the limited consultation and timescale pressures may lead to unintended impacts on users.²¹

“The pressure to deliver quickly and make savings is limiting HMCTS’s ability to consult meaningfully with stakeholders and risks it driving forward changes before it fully understands the impact on users and the justice system more widely.”

House of Commons Public Accounts Committee²²

Research suggests that greater use of technology within the courts has already created some barriers to the quality of advocacy. For example, the need to retrieve and manage information on digital systems, and the widespread use of electronic devices pose challenges to the ways in which advocates communicate in the courtroom.²³

Allied to this risk, is the need to understand the impact on consumers and the justice system of having to deal with a vast amount of digital evidence and the ethical issues that arise for barristers, for example in relation to disclosure.

Technology and the public

The Legal Services Consumer Panel report on empowering consumers highlights that “whilst the internet is a cost-effective means of delivering information rapidly to a wide audience, legal regulators should be aware of digital inclusion challenges”.²⁴

The final report of the Civil Courts Structure Review²⁵ recognised that a significant number of would-be litigants in an Online Court could face challenges in using computers, in living mainly in rural areas with no access to broadband or being unable to afford a computer. Considering the mitigation of these risks, the Report states that, “designing all the IT for use on smartphones and tablets rather than just on desktops and laptops is widely regarded as greatly widening the class of court users likely to benefit from it”, however, the report does recognise that “if the Online Court is to be made compulsory then special assistance will need to be available”.

Some research also suggests that the usefulness of the internet can be limited as a source of advice on how to approach legal issues – participants “generally improved their knowledge of rights after internet use, [but] still struggled to translate this knowledge into action.”²⁶ This suggests that increased availability of online

¹⁹ Ministry of Justice (2016) *Transforming Our Justice System*

²⁰ House of Commons Briefing Paper Number CBP 8372 (27/11/18) *Court statistics for England and Wales*

²¹ [Public Accounts Committee report, July 2018, summary.](#)

²² [Public Accounts Committee report, July 2018, summary.](#)

²³ Bar Standards Board (2018) *Judicial Perceptions of Criminal Advocacy*

²⁴ Legal Services Consumer Panel (2013) *Empowering Consumers Report*

²⁵ Lord Justice Briggs (2016) *Civil Courts Structure Review: Final Report*

²⁶ C. Denvir (2014) *What is the Net Worth? Young People, Civil Justice and the Internet*

information online alone may have a limited impact on helping consumers to negotiate a complex market.

Technological change is also likely to affect the behaviour of consumers and the way in which chambers and barristers operate. These changes could lead to a reduction in face to face contact, which past research found to be the preference for the majority of clients.²⁷ However, where a consumer and provider are unable to meet, technology-based solutions such as the facility to “live chat” (an online exchange of written messages in real time) are found to have higher satisfaction levels than phone and email alternatives.²⁸

Technological innovation

Some further examples of technological innovation include Artificial Intelligence (AI), and blockchain (the linking of a growing list of records using cryptography).

In the commercial sector, “live chat” can be supplemented by Chatbots, using AI to supply customer support 24 hours a day. The Government has recently announced that AI research funding will include money for a three-year study to identify and remove barriers to artificial intelligence in legal services²⁹. The research will look at how AI ‘can be used in legal services and how to unlock its potential for good.’ The Lord Chancellor said that ‘widespread use of Artificial Intelligence is set to transform the £24bn sector, allowing innovative companies to accurately review contracts at high speed and develop ground-breaking tools that could be used to help predict case outcomes.’³⁰

A blockchain is an open, distributed ledger where transactions can be recorded efficiently and in a verifiable and permanent way. A growing list of records (“blocks”) is linked using cryptography, with each record containing an encoded version of the previous record, the relevant transaction data and a timestamp. Since the ledger is distributed, all parties have a copy of the transactions, all of which are digitally signed and encrypted. Blockchain is the technology that underpins digital currencies, but its potential uses are far broader than finance. It can be applied to any transactions with several steps, where traceability and visibility is required. Smart contracts use blockchain to digitally facilitate, verify, or enforce the negotiation or performance of a contract. Blockchain has the potential to cause considerable disruption to the practice of law – there is already a Global Legal Blockchain Consortium³¹ which seeks to standardise and promote its adoption – and a recent survey of law firms suggested that many legal service providers are already using or planning to use blockchain solutions as part of their business, particularly in relation to some transactional legal services.³²

²⁷Peppermint Research (2014) *What clients really want from a legal service provider*; YouGov (2010) *Shopping Around: What consumers want from the new legal services market*

²⁸ The eDigital Customer Service Benchmark found 71per cent of customers were satisfied with live chat, as compared to 61per cent for email and 44per cent for phone. See <https://www.maruedr.com/live-chat-tops-customer-service-league-table-thanks-to-high-satisfaction-and-low-customer-effort/>

²⁹ <https://www.gov.uk/government/news/new-era-of-tech-driven-legal-and-financial-services-to-boost-productivity-and-improve-customer-experience>

³⁰ Ibid

³¹ <https://www.techradar.com/news/7-ways-blockchain-will-change-the-legal-industry-forever>

³² PriceWaterhouseCoopers (2017) *Time for change - PwC Law Firms' Survey*

Data security is a particular source of concern - solicitors have already fallen victim to a range of IT threats and cyber-attacks³³ and the Bar could become equally vulnerable too. A recent report by the SRA³⁴ shows the level of cybercrime is higher than ever. The Information Commissioner's Office has previously issued a warning to the legal profession relating to "troubling" reports of data breaches.³⁵ This highlights the need for barristers and chambers to maintain data security to protect client data and to avoid potentially high fines.

Our supervision of chambers has found that "dedicated IT resources and specialist information risk management expertise are rarely found within chambers themselves".³⁶ This is partly a result of the "structure of the Bar, with the relatively small size of many chambers".³⁷

Flexibility of the profession to navigate through change

Research by the BSB suggests that while there are some examples of "new and innovative" business models in the market, the prevailing business model for barristers is a traditional set of chambers. It also suggests that most barristers do not necessarily feel the need for a new approach to the delivery of legal services. The research indicated that over the next five years, only 5 per cent of barristers' organisations planned to change fee structures, 7 per cent their governance structure, and 8 per cent the way they receive instructions.³⁸ This suggests that a lack of flexibility in how barristers' services are delivered may make it more difficult for the Bar to adapt to a changing market and respond to changing consumer needs.

One such driver of change in the market could be Brexit, which could give rise to both threats and opportunities for barristers. It will be important that we understand the implications of Brexit, and that we then ensure the profession is sufficiently well informed so that it can consider the implications for clients.

Our role as a regulator

We will continue to work closely with the profession to ensure we understand the risks and opportunities arising from the changes we have identified. The BSB needs to gain insight into these areas and will seek to build good relationships with subject matter experts.

Where necessary, we will act quickly to mitigate the risks, but will also work to enable the profession to adapt and hence take advantage of the opportunities described here. We can do this by keeping our rules flexible to facilitate innovation.

The BSB Strategic Plan for 2019-22 sets out the following activity in response to this risk theme.

³³ Solicitors Regulation Authority (2014) *Spiders in the Web – the risks of online crime to legal business*

³⁴ Solicitors Regulation Authority Risk Outlook 2018/19

³⁵ Information Commissioner's Office (2014) *Information Commissioner 'sounds the alarm' on data breaches within the legal profession*

³⁶ Bar Standards Board (2015) *Report on High Impact Supervision Returns*

³⁷ Bar Standards Board (2015) *Report on High Impact Supervision Returns*

³⁸ Bar Standards Board (2017) *Provision of Legal Services by Barristers*

Part 1 – Public

- i. Research and evidence gathering (undertaken where possible, collaboratively with other regulators or interested groups) on the changing shape of the legal services market and the delivery of services by barristers; and then refining our regulatory approach to meet the risks and opportunities identified;
- i. Assessing the consequences of Brexit for the regulation of barristers in England and Wales; and
- ii. Assessing whether our regulatory arrangements, based on evidence gathered, stand in the way of innovation and, if so, what our regulatory approach should be.

Theme 3: Affordability and lack of legal knowledge threaten access to justice

The theme in brief and why we think it matters

The regulatory objectives set out our responsibility, alongside the other legal regulators, to improve access to justice, to protect the interests of consumers and to encourage strong and effective legal services providers. The right of the public to obtain an appropriate remedy through the justice system if they have not been treated fairly is fundamental to maintaining a democratic society.

Having said this, obtaining access to justice is difficult for many consumers, particularly those who are more vulnerable. There are several reasons for this: a complex and fragmented market, a lack of legal knowledge and experience among the general population, and affordability issues.

Affordability, and perceptions of affordability, pose several risks to access to justice, but this can also be hindered by a general lack of legal understanding among the public; while inexperienced, often vulnerable, consumers often find it difficult to know who to turn to for advice and/or representation.

There is also substantive evidence that changes to Legal Aid eligibility implemented by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), have compounded these issues for many, and once again particularly for the more vulnerable. This has led to a significant increase in litigants in person within certain areas of law, resulting in additional burdens being placed on the court system and available evidence suggests this may result in worse outcomes for the individuals affected.

The Bar Standards Board has no locus in advising Government as to the levels or availability of Legal Aid, but our statutory objectives include improving access to justice, protecting and promoting the interests of consumers, and encouraging an independent, strong, diverse and effective legal profession. We will therefore continue to monitor the impact that cuts in Legal Aid may be having upon these regulatory objectives. We will consider what regulatory action may be necessary, working with other bodies who share our regulatory objectives, as together we can uphold those objectives more effectively than on our own.

Evidence

Affordability / pricing and price transparency of legal services

There is evidence that many legal issues and disputes remain unresolved because those involved are unable to obtain legal advice or representation due to cost, or a lack of knowledge and confidence in how to obtain it.³⁹ This is particularly true

³⁹ Legal Services Board (2016) *Online Survey of Individuals Handling of Legal Issues in England and Wales*; Legal Services Board (2014) *How People Resolve 'Legal' Problems*; Legal Services Research Centre (2010) *Knowledge, capability and experience of rights problem*

amongst “socially excluded” groups, even though they are more likely to experience situations requiring a legal solution.⁴⁰

The implementation of LASPO has seen cuts in the amount of Legal Aid available, and associated changes to the way in which it is allocated. The government’s review of LASPO⁴¹ shows significant drops in expenditure on legal aid, with falls of 41% for legal help (defined as *initial advice and assistance that does not involve legal representation*), 35% for civil representation, and 16% for criminal legal aid.

Research suggests this has resulted in larger numbers of consumers unable to afford legal advice or representation in court.⁴² The Ministry of Justice has found that the majority of litigants in person in private family law cases were in that position “because they were ineligible for or had been unable to obtain Legal Aid, but could not afford legal representation”.⁴³ Another example is in employment tribunal cases – the introduction of charges for making an employment tribunal claim following LASPO (reversed in 2017) was followed by a 76 per cent drop in cases taken to employment tribunal in the following year.⁴⁴

One survey found that 63 per cent of the public do not believe professional legal advice is an affordable option for ordinary people.⁴⁵ Other research by the Legal Services Board suggests that “perceived high costs is [one of the] main barriers to accessing legal services for small businesses”.⁴⁶

Furthermore, price transparency is uncommon within the legal sector. Research from the LSB found that only 17 per cent of legal services providers published prices online,⁴⁷ and BSB research suggests that barristers are less likely to provide pricing information than other providers, with only 6 per cent of chambers providing numerical data about fee levels or price structure.⁴⁸ A study from the Competition and Markets Authority concluded that consumers find it hard to make informed choices due to the lack of transparency about price, service and quality, and that this lack of transparency weakens competition between providers and means that some consumers do not obtain legal advice when they would benefit from it.⁴⁹

Ability of legal service providers to meet demand

⁴⁰ MoJ (2016) *Findings from the Legal Problem and Resolution Survey, 2014–15*; Legal Services Commission (2011) *Civil Justice in England and Wales*; Buck et al. (2005) *Social Exclusion and Civil Law: Experience of Civil Justice Problems among Vulnerable Groups*

⁴¹ Ministry of Justice (2019) *Post-Implementation Review of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012*

⁴² Amnesty International (2016) *Cuts that Hurt - The impact of legal aid cuts in England on access to justice*

⁴³ Ministry of Justice (2014) *Litigants in person in private family law cases*

⁴⁴ Equality and Human Rights Commission (2015) *Equality, Human Rights & Access to Civil Law Justice*

⁴⁵ Hodge, Jones & Allen (2015) *UK Perceptions of the Legal and Justice System*

⁴⁶ Legal Services Board (2016) *Cost of Services*, Available at: <https://research.legalservicesboard.org.uk/analysis/demand/cost-of-services/>

⁴⁷ Legal Services Board (2016) *Prices of Individual Consumer Legal Services*

⁴⁸ Bar Standards Board (2017) *Web Sweep – Transparency of Online Price Information*

⁴⁹ Competition and Markets Authority (2016) *Legal Services Market Study*

The government's review of LASPO found⁵⁰ that since its implementation, there are fewer legal providers, with the number of criminal legal aid providers having fallen by 14% and the number of legally aided civil work providers have fallen by 32% overall.

There has also been an absolute fall in the number of providers in some areas of law or regions in the country. Since LASPO was implemented, the number of immigration providers has fallen by 15%, while providers of housing law services have declined by 39%. In some areas, the effects are more pronounced. The Eastern region, for example, has seen a 50% fall in the number of immigration providers. All of this suggests that the changes in legal funding may have affected the ability of the sector to meet consumer demand, for example there is evidence to suggest that in immigration work there is higher demand than supply.⁵¹

Research by Amnesty international⁵² has also argued that cuts had contributed to 'advice deserts' in certain areas of the country, where there is extremely limited provision of (particularly free) legal advice. This has also been highlighted in other research which details the closure of Citizens Advice Bureaux and Law Centres in response to decreases in available funding.⁵³

"I've got nowhere to go for help now in Oxford. The organisation that used to give me advice on my case, as well as confidence that things would be OK, has gone. I've lost that support. I'm totally on my own and that terrifies me"

Family law litigant⁵⁴

LASPO could also be affecting the quality of advocacy, with some in the profession being unable or unwilling to deliver the services required to a competent level. Research published in June 2018, which looked at judicial perceptions of the quality of criminal advocacy⁵⁵ found that more than half of the judges interviewed expressed concern that declining levels of remuneration in criminal advocacy, and associated low levels of morale within the profession, have a negative impact on the quality of advocacy. Specific concerns were that such issues can mean that the most able advocates leave criminal practice in favour of more lucrative work in the civil arena, and those remaining in criminal practice are more likely to take on cases above their level of competence or be able to devote less time to cases that they do take on.

Navigating a complex marketplace and choices of provider

Consumers can feel intimidated by legal professionals and the process of purchasing legal services.⁵⁶ This can also contribute to them not making a complaint when they are dissatisfied with the service they have received.⁵⁷ Research from the Legal

⁵⁰ Ministry of Justice (2019) Post-Implementation Review of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012

⁵¹ Bar Standards Board (2016) *Immigration Thematic Review*

⁵² Amnesty International (2016) *Cuts that Hurt - The impact of legal aid cuts in England on access to justice*

⁵³ JUSTICE (2018) *Innovations in Personally Delivered Advice – surveying the landscape*

⁵⁴ Amnesty International (2016) *Cuts that Hurt - The impact of legal aid cuts in England on access to justice*

⁵⁵ Institute for Criminal Policy Research (2018) *Judicial Perceptions of the Quality of Criminal Advocacy*
https://www.barstandardsboard.org.uk/media/1939251/judicial_perceptions_of_criminal_advocacy_final_report_june_2018.pdf

⁵⁶ Solicitors Regulation Authority (2010) *Research on Consumers' Attitudes towards the Purchase of Legal Services*

⁵⁷ Legal Ombudsman (2012) *Consumer experiences of complaint handling in the legal services market*

Services Consumer Panel (LCSP) suggests that 44 per cent of consumers who were dissatisfied with a lawyer did not take any action in response.⁵⁸

The more formal it [a complaint] gets with them, the less you're likely to ever get anywhere, because they'll win at that. They'll always win at that. It's what they do day in and day out."

Dissatisfied legal service consumer⁵⁹

Research from the LSB suggests that while unregulated providers make up a relatively small proportion of the market (around 5 per cent of cases for which clients paid for legal services) they pose risks for consumers including making misleading advertising claims. This is significant as consumers might not always make an informed choice to use an unregulated provider and will not, therefore, realise the lack of consumer protection they have.⁶⁰ The research also found that nearly half of consumers using unregulated providers are not aware of their regulatory status, with many assuming they are regulated.

"I'd be shocked if they weren't regulated - you'd just assume that they would be."

Legal service consumer⁶¹

Availability of flexible / unbundled service offerings

Unbundling can also be a way to reduce the cost of legal advice. This involves separating "a package of legal services into parts or tasks".⁶² The consumer and provider then agree which parts the provider will do, with the consumer doing the rest. The 2017 Tracker Survey⁶³ found that one in five of all legal transactions involve some element of unbundling, and research for the LSCP and LSB⁶⁴ suggests that the primary reason for consumers adopting an unbundled approach is lower costs.

However, in the research, providers and judges highlighted issues with the unbundling approach. While some legal help was seen as better than none, both judges and providers highlighted that problems could arise when clients were incapable of effectively carrying out the elements of the case they were doing themselves, when they supplied inaccurate information to providers, and when they were unclear as to the limits of what the provider had agreed to do for them. These risks could adversely affect the outcomes of the case, with associated detrimental impacts on the individuals involved.

Links between diversity and access to Justice

⁵⁸ Legal Services Consumer Panel (2014) *Consumer Impact Report*

⁵⁹ Legal Ombudsman (2012) *Consumer experiences of complaint handling in the legal services market*

⁶⁰ Legal Services Board (2016) *Unregulated Legal Service Providers – Understanding Supply Side Characteristics*

⁶¹ Solicitors Regulation Authority (2010) *Research on Consumers' Attitudes towards the Purchase of Legal Services*

⁶² Legal Services Consumer Panel (2015) *Qualitative research exploring experiences and perceptions of unbundled legal services*

⁶³ Legal Services Consumer Panel (2017) *Tracker Survey*

⁶⁴ Legal Services Board (2015) *Qualitative research exploring experiences and perceptions of unbundled legal services*

Some legal consumers will be facing particular vulnerabilities, which could relate to a wide range of situations or individual characteristics. Such individuals can face additional barriers to accessing legal services or to obtaining an appropriate service.

In addition, individuals with vulnerabilities can be more likely to encounter the justice system. Research by the Legal Services Commission found individuals with one or more “vulnerabilities” report higher numbers of civil justice problems on average than those without any “vulnerabilities”⁶⁵. In particular, those involved in the criminal justice system are considerably more likely than the general population to have mental health issues - research has estimated that 39 per cent of people detained in police custody have one or more mental health issues, and that around 60 per cent of prisoners have personality disorders, compared to 5 per cent of the general population.⁶⁶

Past research has suggested that vulnerable users of the justice system, such as consumers with mental health issues,⁶⁷ learning disabilities,⁶⁸ hearing impairment,⁶⁹ or young defendants or witnesses⁷⁰ have support needs that are often poorly addressed by legal service providers.

“I didn’t like it, it shocked me. The judge asked me if I understood and I said yes even though I didn’t. I couldn’t hear anything, my legs turned to jelly, and my mum collapsed.”

Defendant with learning disability⁷¹

Unmet need, and its disproportionate impact on certain groups, can also cause some sections of the public to feel that the legal system does not operate in their best interests. This can undermine public trust in the legal profession, which the LSCP Tracker Survey (2017) found is lower than for some other professions.⁷²

Much of the public feel that the legal sector is not fair or transparent, and that their rights will not be protected if they make use of legal services⁷³. Some research has argued that existing levels of trust in the legal profession are already damaging both to providers of legal services and to the wider public.⁷⁴

The ability of some groups to access the justice system effectively is likely to have been disproportionately impacted by changes to funding, according to research from Amnesty international⁷⁵ which highlighted the impact of Legal Aid cuts on disadvantaged and marginalised groups, primarily in the areas of family, immigration and welfare benefits law.

⁶⁵ Legal Services Commission (2010) *Report of the 2006-2009 English and Welsh Civil and Social Justice Survey*

⁶⁶ National Institute for Health and Care Excellence (2017) *Mental health of adults in contact with the criminal justice system*

⁶⁷ JUSTICE (2017) *Mental health and fair trial*

⁶⁸ Legal Services Consumer Panel (2013) *What happens when people with learning disabilities need advice about the law?*

⁶⁹ Kyle et al. (2012) *Legal Choices – Silent Process*

⁷⁰ Institute for Criminal Policy Research for the BSB (2015) *Youth Proceedings Advocacy Review*

⁷¹ J. Jakobsen & J. Talbot (2009) *Vulnerable Defendants in the Criminal Courts*

⁷² Legal Services Consumer Panel (2017) *Tracker Survey*

⁷³ Hodge, Jones & Allen (2015) *UK Perceptions of the Legal and Justice System*

⁷⁴ Republica (2015) *In Professions We Trust*

⁷⁵ Amnesty International (2016) *Cuts that Hurt - The impact of legal aid cuts in England on access to justice*

‘Legal capability’ amongst the general population

Law for Life, a legal education and information charity, has defined legal capability as “the abilities that a person needs to deal effectively with law-related issues”.⁷⁶ This covers the knowledge, skills and attitudes needed by a consumer to identify and subsequently resolve a legal problem they are facing – so going beyond knowledge of the law, to include capabilities such as communication skills, confidence and determination. It is difficult for inexperienced, often vulnerable, consumers to know who to turn to for advice and/or representation. This can worsen any legal problems they face⁷⁷ and affect their willingness to engage with legal services in the first place.⁷⁸

A lack of knowledge of their rights and a lack of understanding of legal services is more common among disadvantaged or vulnerable groups and around certain legal issues.⁷⁹ This can lead to further disadvantage when people from these groups require legal services.

Alongside the complexity of the legal system, Law for Life found that “only 59 per cent of people were able to demonstrate some understanding of their rights” and “only 25 per cent of people claim to know their legal position completely when they experience a legal problem”. They also found that the “majority of people feel confident that they can achieve a fair resolution to a problem” until they realise they have encountered a legal problem. At this point, “levels of confidence [reduce] significantly”.⁸⁰

Other research showed that when faced with legal problems, 31 per cent of respondents felt they did not understand their rights at all, and just 11 per cent were able to correctly identify problems as being legal in nature.⁸¹ Furthermore, the elaborate, ritualised nature of trials, involving technical terms, jargon and ‘legalese’, can make trials almost incomprehensible to victims, witnesses and defendants.⁸²

Rise in self-representation and the impact on the courts system and the interests of justice

The available evidence suggests that since LASPO there has been a significant increase in the numbers of litigants in person⁸³, particularly in family cases. In the past, they may have been in the courts by choice but now they were there because they could not get Legal Aid.⁸⁴

Interestingly, the BSB has also seen a 64 per cent increase in the number of complaints from litigants in person (from 47 in 2016/17 to 77 in 2017/18.) Many of

⁷⁶ <http://lawforlife.org.uk/wp-content/uploads/2013/05/legal-capability-planet-2009-147-1-147.pdf>

⁷⁷ Denvir et al. (2013) *When legal rights are not a reality: do individuals know their rights and how can we tell*

⁷⁸ Legal Services Board (2012) *Understanding consumer needs from legal information sources*

⁷⁹ Legal Services Research Centre (2010) *Knowledge, capability and experience of rights problems*

⁸⁰ Law for Life (2015) *Legal Needs, Legal Capability and the Role of Public Legal Education*

⁸¹ Legal Services Commission (2013) *Summary Findings of Wave 2 of the English and Welsh Civil and Social Justice Panel Survey*

⁸² Institute for Criminal Policy Research (2015) *Structured Mayhem – Personal Experiences of the Crown Court*

⁸³ House of Commons Library (2016) *Litigants in person: the rise of the self-represented litigant in civil and family cases*

⁸⁴ House of Commons Library (2016) *Litigants in person: the rise of the self-represented litigant in civil and family cases*

these have been in relation to civil and family law. As reported in our Enforcement Report 2017-18⁸⁵, this increase could reflect cuts in Legal Aid as these areas are the most severely affected by the cuts and the areas that give rise to the greatest numbers of complaints from litigants in person. However, this can only be a speculative assumption, as we do not have the detailed information to make a firm deduction.

Research from Amnesty International has highlighted the impact of Legal Aid cuts on disadvantaged and marginalised groups, primarily in the areas of family, immigration and welfare benefits law.⁸⁶ The research found that litigants in person often lack the skills to represent themselves and present their cases effectively. This is particularly so among vulnerable groups such as children and young people in family cases. Research from Citizens Advice found that the proportion of family cases in which neither party had representation increased from a quarter to a half since the implementation of LASPO. Its report highlighted the stress, responsibility and loneliness faced by those acting as a litigant in person, and that they were likely to receive worse outcomes than those with representation.⁸⁷ The research also highlighted that the court system was ill-suited to dealing with litigants in person, compounding the problems they faced.

The impact of litigants in person is not restricted to the family courts – other research found that as Legal Aid was not available for employment tribunals, only 33 per cent of claimants were represented at hearings, as opposed to 67 per cent per cent of employers.⁸⁸

Research from the Ministry of Justice suggests that not having a lawyer in Civil or Criminal proceedings is associated with more court hearings being needed for a case, or cases taking considerably longer to resolve. This is a situation that could end up costing the court system more.⁸⁹

‘Having unrepresented defendants drives a coach and horses through Better Case Management’⁹⁰

Crown Court Judge⁹¹

Our role as a regulator

Whilst there is nothing we can do directly as a regulator to change the availability of Legal Aid, there is much we can do to fulfil our objective to improve access to justice for everyone in our society. This includes some of the work we have done over the past few years to introduce new rules to improve transparency standards at the Bar, and the work we do with the other legal regulators to run the Legal Choices website,

⁸⁵ BSB Annual Enforcement Report_2017-18

⁸⁶ Amnesty International (2016) *Cuts that Hurt - The impact of legal aid cuts in England on access to justice*

⁸⁷ Citizens Advice (2016) *Standing alone: going to the family court without a lawyer*

⁸⁸ Equality and Human Rights Commission (2015) *Equality, Human Rights & Access to Civil Law Justice*

⁸⁹ Ministry of Justice (2016) *Unrepresented Defendants - Perceived effects on the Crown Court and indicative volumes in magistrate’s courts*

⁹⁰ ‘Better Case Management’ is a set of guidelines introduced in 2016 to improve court efficiency

⁹¹ Ministry of Justice (2016) *Unrepresented Defendants - Perceived effects on the Crown Court and indicative volumes in magistrate’s courts*

to improve public legal education and to increase public understanding of citizens' legal rights and duties.

The BSB Strategic Plan for 2019-22 sets out the following activity in response to this risk theme.

- i. Delivering risk-based, targeted and effective regulation, including improving the way in which we communicate with the public;
- ii. contributing to public legal education to enable the public to have better access to information about the legal sector, barristers and the services that they provide
- iii. assuring the standards of practice of barristers (generally and against the backdrop of changing consumer needs);
- iv. understanding the role of unregistered barristers and barrister intermediaries in meeting consumer needs (and therefore the role that the BSB should play in regulating them);
- v. evaluating the impact of our regulatory response to the CMA report.

BAR
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REGULATING BARRISTERS

2019-20 Business Plan

Foreword by the Chair

I am pleased to introduce the Bar Standards Board's (BSB's) Business Plan for 2019-20. It should be read in conjunction with our **2019-22 Strategic Plan** [\[LINK\]](#). That Plan explains that our focus over the next three years will be to ensure that our recent policy initiatives such as our reforms to the rules governing Bar training, to our disciplinary and enforcement processes, and our new transparency rules in response to the report of the Competition and Markets Authority, are successfully implemented and consolidated. This means that the next three years, starting in 2019-20, will involve fewer new policy initiatives, fewer consultations and fewer rule changes.

Our Strategic Plan also explains how we have identified key risk themes in the market for barristers' services in order to agree three strategic aims for the 2019-22 period. These aims are:

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

This Business Plan lists the specific activities that we will undertake during 2019-20 against each of these strategic aims. It also explains that 2019-20 will be the start of a period in which we will continue to focus much of our energy and resources on our core regulatory activities.

As the regulator of the Bar in England and Wales, these core activities include, overseeing the education and training requirements for becoming a barrister, monitoring the standards of conduct for barristers, and assuring the public that everyone we authorise to practise is competent to do so. We do this by supervising the practice of barristers and the specialist legal services businesses whom we regulate. We deal with any information we receive which might indicate that those we regulate may not be following our rules and where necessary, we take appropriate regulatory action. This day-to-day work accounts for most of what we do.

As well as these "business-as-usual" activities, some key highlights from this year's Plan include:

- starting to authorise vocational and work-based learning training providers under the new Bar training rules and the new Authorisation Framework;
- initiating a review of the BSB Handbook to make sure that it remains fit for purpose, relevant and accessible;
- issuing a new regulatory return to the profession to help us gather information about compliance with, and the impact of, our regulation;
- completing the modernisation of our decision making by establishing a Contact and Assessment Team and an Independent Decision Making Body;
- reviewing the BSB Equality Rules including consulting on a potential rule change;
- introducing new rules and guidance on pupillage recruitment and advertising; and
- refreshing our website.

We are committed to providing value-for-money to the profession which funds us in everything that we do. Our budget for 2019-20 is £5,614k. In addition, we contribute £3,414k to the common services, such as IT, HR and Finance, which we share with the Bar Council. There is more information about our planned income and expenditure in this Plan.

You will be able to read more about how we performed against this Business Plan in our Annual Report which we will publish later in 2020.

[Signature]

Baroness Blackstone, Chair of the Bar Standards Board

1. More about this Business Plan

This annual Business Plan is the first under our new Strategic Plan for 2019-22. In the tables below, we have listed our planned activities in 2019-20 under our three Strategic Aims for this period. These aims are:

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

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

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

- working cultures and professional environment inhibit an independent, strong, diverse and effective profession;
- innovation and disruption in the legal services market offer threats and opportunities for the profession and for the public; and
- affordability and lack of legal knowledge threaten access to justice.

In this Business Plan, we have included our core regulatory activities which we will conduct throughout the year – and indeed which we conduct every year – as well as providing a planned high-level timeline of the specific policy and other work which we will carry out this year.

We have broken down this work into quarterly milestones which are based upon a financial year – so quarter one (Q1) starts in April 2019 and quarter four (Q4) ends in March 2020. These checkpoints help us to monitor performance and ensure we stay on track with our work. This monitoring is overseen by our Board and by the Planning, Resources & Performance (PRP) Committee. They evaluate what we are doing so that this can then feed into our work plans for subsequent Business Plans. We report progress on our work publicly via our regular public Board meetings and our comprehensive Annual Reports which we publish on our website.

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

This Business Plan also provides information about how we are governed and outlines our planned income and expenditure for 2019-20. This shows that the portion of our budget in 2019-20 which we directly control will be £5,614k.

2. Activities for 2019-20

The work which we will undertake during 2019-20 can be categorised into the **core regulatory activities** which our role as the regulator of barristers in England and Wales requires us to do on a day-to-day basis, and the **policy and other project work** which we will complete in order either to improve the way in which we regulate or to review, evaluate and, where necessary, change our rules.

Each of these activities has been listed under one of our three Strategic Aims, so that you can see what we are doing to help us achieve each aim. The milestone tables below provide more detail on the planned policy and other work, so you can see what we plan to do when.

3. Timeline of activities

Strategic Aim 1 – Delivering risk based effective and targeted regulation. [\[LINK TO STRAT PLAN AIM 1\]](#)

The core work that we conduct through the year	<ul style="list-style-type: none"> • Assessing and, where appropriate, investigating reports about barristers' conduct and taking enforcement action where necessary • Authorising vocational and work-based learning training providers under the Authorisation Framework • Supervising barristers' practices • Monitoring and reporting on our performance as a regulator to ensure that we are efficient and effective • Managing the centralised examinations function • Communication and stakeholder engagement • Reviewing our regulatory arrangements in the light of emerging risks in the market
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Timeline of other activity by quarter	Q1	Q2	Q3	Q4
Review of the BSB Handbook	Initiate the review of the BSB Handbook	Engage with stakeholders and build our evidence base to determine the scope of the review		Conclude options analysis and agree the scope of the review
Enforcement		Annual Enforcement Report to be produced		
Regulatory return to gather information about compliance with and the impact of our regulation	Develop and define the scope of the BSB regulatory return		Finalise content of the return	Issue the return to the profession
Money Laundering/Terrorist Financing supervision	Implement actions agreed with The Office for Professional Body Anti-Money Laundering Supervision (OPBAS) including a thematic review of Trust and Company Services Providers	Prepare and submit annual Money Laundering return to the Treasury		
Modernising decision making – establishment of the Contact and Assessment Team (CAT) and Independent Decision Making Body (IDB)	Rule change application to the Legal Services Board Case management system development	Staff and Panel member training	CAT and IDB established	
Future Bar Training – development of new exams – Professional Ethics	Draft Professional Ethics syllabus and agree the technical solution for assessment and marking			Final syllabus approval
Future Bar Training – evaluation	Evaluation design Agree evaluation questions and data collection		Commence the longitudinal study, using a case-study strategy, following the learning and professional development journeys of trainees	
Regulatory Risk	Publication of new Risk Outlook Refreshed Risk Index agreed and published Board Risk Appetite set	On-going risk monitoring and reporting		

Strategic Aim 2 - Encouraging an independent, strong, diverse and effective legal profession [[LINK TO STRAT PLAN AIM 2](#)]

The core work that we conduct throughout the year	<ul style="list-style-type: none"> Collecting and publishing diversity data on the profession Supervising barristers' practices Working with others to understand the factors that influence diversity within the profession Research activity to improve understanding of the legal services market and the impact on the market of BSB regulation
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Timeline of other activity by quarter	Q1	Q2	Q3	Q4
Review of BSB Equality Rules	Conclude Equality Impact Assessment (EIA) of Equality Rules	EIA to feed into regulatory return	Potential Rule change consultation	
Regulatory approach to allegations of bullying and harassment	Design approach for dealing with allegations of bullying and harassment.		Draft and publish guidance on reporting bullying and harassment to the BSB	
Future Bar Training – Pupillage reform	Piloting new approach to pupillage Develop approach to pupil supervisor training and agreed training outcomes	Launch new requirements	New pupillage arrangements in place	
Future Bar Training – Pupillage recruitment and advertising	Develop good practice guidance for recruitment and advertising of pupillage		New Rules and guidance introduced	
Race equality	Establish Race Equality Taskforce			
Scope of practice	Consultation on principles		Draft new rules	Consult on new rules
Research publications	BPTC key statistics report			Diversity at the Bar data report
Immigration		Review rules relating to supervision of immigration advisers		
Professional Indemnity Insurance	Rule change application on Single Person Entities			

Strategic Aim 3 – Advancing access to justice in a changing market [\[LINK TO STRAT PLAN AIM 3\]](#)

The core work that we conduct throughout the year	<ul style="list-style-type: none"> • Providing information to the public about barristers and legal services on fora such as Legal Choices • Sharing information and contributing to research on barriers to access to justice • Through our public engagement strategy, developing stronger relationships with consumer organisations • Monitoring barristers; Continuing Professional Development (CPD)
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Timeline of other activity by quarter	Q1	Q2	Q3	Q4
Assuring standards at the Bar	Refine approach to assuring competence of barristers	Stakeholder engagement and evidence gathering Review regulatory approach to assuring standards of advocacy within the Youth Court		Report on impact of regulation on advocacy standards in the Youth Court
CPD evaluation	Research into the impact of the new regulatory approach to CPD	Research report drafted	Research report published	
BSB website	Develop new BSB website and draft new content		Launch new BSB website	
CMA evaluation	New price transparency rules in force Updated Public Access and client care letter guidance issued			Commence the evaluation of price transparency rules

4. The role and work of the BSB Board

The Bar Standards Board is made up of 15 people, a combination of lay people and barristers. It has a lay majority and a lay chair, Baroness Tessa Blackstone.

Leadership

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

Accountability, assurance and oversight

The Board, through its non-decision-making standing committees, monitors the work and performance of the organisation. It holds the executive to account on:

- the commitments made in these Business Plans;
- the BSB's agreed service-standards;
- the delivery of key milestones to time and to budget; and
- the availability of adequate resources to ensure that the BSB can deliver its regulatory and strategic objectives.

Strategy

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

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

- Governance, Risk and Audit Committee
- Planning, Resources and Performance Committee
- Professional Conduct Committee

The Governance, Risk and Audit Committee (GRA) is responsible for ensuring the Board's corporate governance standards and internal controls are maintained. The Committee keeps under review and advises the Board on all matters relating to the risk management framework and our internal audit function.

The Planning, Resources and Performance Committee (PRP) supports development of the strategic and annual business plans. The Committee oversees operational and programme delivery holding the executive to account. It also considers whether financial and operational resources are properly and effectively allocated and efficiently managed. The supervisory function of this committee is one mechanism to achieve transparency and accountability.

The Professional Conduct Committee (PCC), and staff authorised by it, makes decisions about reports and complaints regarding the conduct of barristers. Where a barrister has breached the BSB Handbook, the PCC has a number of options which includes the imposition of “administrative sanctions” (warnings and low level fines) for less serious conduct issues but also referral to disciplinary action (eg a disciplinary tribunal) for more serious issues of professional misconduct. The PCC will be replaced with a new Independent Decision-Making Body in October 2019.

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

5. Our 2019-20 budget

Our budget year runs from 1 April 2019 to 31 March 2020 and the budget that we control directly for this period is £5,614k

We estimate that direct income from sources other than the Practising Certificate Fee (PCF) will be £1,059K

The Practising Certificate Fee (PCF)

The Bar Council approves our budget and collects our funding. The Bar Council and the BSB has consulted on its budget and PCF proposals with the profession and has received approval from the Legal Services Board.

How is the BSB funded?

Part of our income comes from charges we make for specific services we provide to individuals. We describe that kind of income as “income streams directly controlled by the BSB”. Directly controlled income streams include for example the fees from Bar Professional Training Course (BPTC) providers, and the Bar Transfer Test (BTT). The remainder of the BSB’s funding is from practising certificate fees & Bar Council reserves. These income streams are not directly controlled by the BSB.

Where will the BSB get its income from?

<i>Income streams directly controlled by the BSB</i>	£k
Entity Regulation and ABS	80
Authorisations – Waivers and Accreditation	100
Examinations	135
BPTC	657
Training provider authorisations	50
Prosecution costs	35
Public access	2
Total directly controlled income	1,059

Regulation – the costs explained

The BSB has direct control of a budget of £5,614k for 2019-20. Those funds will be spent on each of the areas shown below.

However, this does not reflect the full cost of the BSB. We share the costs of common services with the Bar Council including a share of the premises at 289-293 High Holborn as well as relying upon the Resources Group to carry out support work (HR, IT, and Finance etc). The Resources Group budget is managed separately and part of that budget (£3,414k) is apportioned to the BSB.

For the part of our budget that we control directly, we will as always look to ensure that our expenditure is allocated wisely and in a way that delivers maximum value-for-money for those who fund us. The organisation undertakes rigorous prioritisation exercises as part of business planning. Only activity deemed essential is agreed and included in the business plan

What will we spend our money on?

Budgets controlled directly by the BSB

£k

Staff Costs **4,403**

Non-Staff Costs

Regulatory Assurance	542
Professional Conduct	353
Strategy and Policy	72
Communications and Public Engagement	103
Corporate Services	82
Chair and Director General	59
Total non-staff costs	1,211
Total Expenditure	5,614

6. Further reading

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

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

Research at the BSB

1. A small team of research and analytical specialists helps the BSB to meet its regulatory objectives and strategic priorities by providing high quality, reliable research, evaluation and analysis, enabling policy development and regulatory risk management to be evidence-based.
2. The Research Team is responsible for the following range of activities:
 - **Conducting and commissioning research, monitoring and analysis** to build the evidence base and inform debate and policy.
 - **Evaluating** the impact or effectiveness of BSB-specific projects, policies, programmes or regulatory actions.
 - **Co-ordinating the analysis and publication of data** on the life-cycle of the Bar - from entry to Queen's Counsel - and the diversity of students undertaking the vocational phase of training for the Bar (the Bar Professional Training Course) and of the wider profession.
 - **Identifying and sharing evidence and information** from the wider research community, to inform decision-making and practice.
 - **Providing specialist research advice and guidance within the BSB**, responding to queries and requests for information or data.
 - **Communicating research evidence** in a user-friendly way to support its application and use.
 - **Collaborating with researchers in other legal regulators** in planning and delivering research, ensuring value for money by pooling resources and sharing knowledge.
3. The Research Team seeks to improve the BSB's understanding of those we regulate, the market, what legal services consumers need and how they use legal services, and the impact of our work.
4. Research supports the BSB in developing, reviewing and evaluating policy and provides evidence to support decisions on the setting or revision of professional standards and the introduction of rules and guidance for barristers and entities.
5. By monitoring and gathering evidence about what is happening in the market, the Research Team supports ongoing regulatory risk management. This work, combined with the BSB Assurance Framework, supports the development of a good understanding of the impact being made by the BSB as regulator.

Research Plan 2019-20

6. To enable us to achieve the objectives set for 2019-20, we have identified the research needs set out below. This will support and contribute to the programme of work set out in the BSB's Business plan for 2019-20.

Project	Q1	Q2	Q3	Q4
Evaluation Projects				
FBT Evaluation - ongoing work to assess the implementation process and impact of the FBT reforms				
CPD Evaluation - project to assess the impact of the changes to Continuing Professional Development				
BCAT Evaluation - assess the impact of the BCAT and if it still functions as an effective predictor of vocational course performance				
CMA Evaluation - Pre-rules change data gathering to provide a baseline for future evaluation of the transparency changes				
Equality and Access to Justice - Research				
Review effectiveness / impact of equality policies and practice in vocational education				
Consider research on the experiences of the profession around discrimination and positive action				
Update differential attainment analysis in the light of new centralised assessments				
Survey the profession in relation to the reporting requirement for harassment				
Policy - Evidence gathering and Research				
Agree research strategy for Handbook review				
Following Scope of Practice discussion document, consider what further evidence may be needed				
Assistance with evidence gathering on assuring standards				
Business as Usual				
BPTC Key Statistics Report - production and publication of annual statistics on the BPTC course				
Diversity at the Bar Report - production and publication of annual statistics on the profession				
Website Statistics - production and publication of more detailed annual statistics on the profession for the BSB website				
Risk Evidence - Providing and regularly updating summaries of available/emerging evidence to inform the Risk Register				

Meeting:	Bar Standards Board	Date:	28 March 2019
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Title:	Amendment to Scheme of Delegations to give effect to the new Bar qualification rules
Author:	Clíodhna Judge
Post:	Head of Assurance, Regulatory Assurance Department

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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Recommendations

<ol style="list-style-type: none"> 1. That the Board approve the proposed additions to its Scheme of Delegations (delegated to the Director-General) to take effect following publication of the amended Handbook, giving effect to the rule changes for new Bar training. 2. If the above delegations are approved, that the Board consider the Director-General's proposed sub-delegations as set out in the paper.

Executive Summary

<ol style="list-style-type: none"> 3. In February 2019 the Legal Services Board ("LSB") approved the BSB's application for the rule changes to provide for new Bar training. The rules come into force on the 1st of April. The Scheme of Delegations needs to be amended to give appropriate governance effect to these changes.

Proposed additions to the Board's Scheme of Delegation

<ol style="list-style-type: none"> 4. The amendments to the Scheme of Delegations have been divided as follows: <ol style="list-style-type: none"> a. Amendments to existing delegations b. Proposed deletion / removal of existing delegations c. Proposed additions. 5. A reason for each amendment, deletion or addition is set out alongside the delegation for ease of reference. A fully updated version of the Scheme of Delegation, with consequential numbering changes, is attached at Annex 1 6. It is proposed that the Board delegate these powers to the Director General and approve her proposed sub-delegation to members of the BSB Executive as set out in the attached paper.
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Risk

<ol style="list-style-type: none"> 7. The risk in not approving the proposed delegations is that every exercise of the new powers will require approval by resolution of the Board itself, which is neither a worthwhile use of Board time nor an effective and proportionate means of considering applications, as well as being contrary to the better regulation principles.
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Resources (Finance, IT, HR)

8. The proposed amendments and additions will optimise the use of resources, by applying the Board's governance principle that decisions should be delegated to the lowest appropriate level whilst maintaining quality and managing risk. There is no anticipated additional resource required to support the proposed delegations, although any expenditure on enforcing notices will be monitored through the legal budget.

Equality & Diversity

9. There have been multiple EIAs carried out on the impacts of these rules with an ongoing programme of monitoring and review.

Amendment to Scheme of Delegations to give effect to the new Bar qualification rules

Background

1. In February 2019 the Legal Services Board (“LSB”) approved the BSB’s application for the rule changes to provide for new Bar training. The rules come into force on the 1st of April. The Scheme of Delegations needs to be amended to give appropriate governance effect to these changes.

Proposed amendments to the Board’s Scheme of Delegations

2. The Board has delegated authority to the Director-General for oversight of all operational and administrative activities. To give operational effect to the Board delegations above, it is necessary for the Director-General to sub-delegate to relevant members of the BSB executive. The Director-General’s proposed sub-delegation of the new operational powers are set out in detail below. The level of sub-delegation proposed has been arrived at by considering the principles of effective delegation in the Governance Manual, including the principle that “decisions should be delegated to the lowest appropriate level, whilst also ensuring an appropriate quality of decision-making and management of risk.”

Proposed additions to the Board’s Scheme of Delegation

3. The amendments to the Scheme of Delegations have been divided as follows:
 - a. Amendments to existing delegations
 - b. Proposed deletion / removal of existing delegations
 - c. Proposed additions.

A reason for each amendment, deletion or addition is set out alongside the delegation for ease of reference. A fully updated version of the Scheme of Delegations, with consequential numbering changes, is attached at Annex 1.

a) Proposed amendments to existing delegations

Current Number	Proposed New Delegation	Sub-Delegation	Reason for Amendment
6	Issue guidance to the Inns' Conduct Committee <u>or the Council of the Inns of Court</u> to follow in carrying out its <u>their functions as set out in Part 4 of the Handbook and any Memorandum of Understanding between the parties and ask for information about the performance of those functions (rQ127).</u>	Director of Professional Conduct Director of Strategy and Policy <u>Director of Regulatory Assurance</u>	The MOU (and associated Schedules) discharge the BSB's responsibility to set out in writing the requirements to be met by an Inn relating to admitting and calling student members, carrying out fit and proper person checks and delivering qualifying sessions in line with rQ6. The sub-delegations have been updated to reflect the appropriate level at which these powers should be exercised.
22	Take decisions in relation to the approval, refusal and rescinding of approval of individuals and organisations to provide training, supervision or assessment where required by the regulations, and the contracting of services for training delivery where not specified in the regulations.	Director of Regulatory Assurance <u>Director of Strategy and Policy</u> Head of Training Supervision and Examinations Head of Assurance <u>Head of Supervision</u> Authorisations Manager	"...and the contracting of..." has been deleted as it is deemed to be adequately covered in the delegation. The addition of the Director of Strategy and Policy and the Head of Supervision roles reflects the sub-delegation of decision-making powers for public access training.
24	Take decisions in relation to applications for exemption from, or modifications to, any requirement of the Bar <u>Qualification Training</u> Rules (Section 4B Part 4, Section B of the Handbook), except the power in rQ 611 which is covered by Delegation <u>644</u> .	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer <u>Senior Training Supervision Officer</u>	"Training" has been replaced with "Qualification" for consistency with the title of the new and consolidated Bar Qualifications Manual. The references to rules and references has been updated.

Current Number	Proposed New Delegation	Sub-Delegation	Reason for Amendment
		Supervision and Authorisation Officer	“Senior Training Supervision Officer”, a Band 5 role with the Regulatory Assurance Department, is included to ensure flexibility and broaden the pool of available resource for these decisions.
26	Take decisions in relation to applications for <u>exemptions from, or modifications to, any requirement for transferring lawyers (Rules rQ7 – rQ28) and the registration of European Lawyers as Registered European Lawyers (Rules rQ17 – rQ2228 and Section 3 D), of Qualified Solicitors and Qualified Foreign Lawyers (Section 4B of the Handbook).</u>	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer <u>Senior Training Supervision Officer</u> Supervision and Authorisation Officer	The change in terminology reflects the new approach to be taken by the Authorisations Team in deciding on applications from various categories of transferring lawyers. See Delegation 24 re the inclusion of the “Senior Training Supervision Officer” role. Regarding RELs: There are no amendments suggested as the UK’s withdrawal from the EU is likely to be delayed. Once there is certainty around the UK’s withdrawal (with an agreement or otherwise), relevant sections can be amended. In the unlikely event of the UK’s departure on 29 th March without a deal, provisions will be made.
27(a)	Take decisions in relation to applications for <u>exemptions from, or modifications to, any requirement for transferring lawyers (Rules rQ7 – rQ28), of Qualified Solicitors, Qualified Foreign Lawyers or Qualified European Lawyers or registration as</u>	<u>Director of Regulatory Assurance</u> <u>Head of Assurance</u> <u>Authorisations Manager</u> <u>Senior Supervision and Authorisation Officer</u>	The sub-delegation has been amended for clarity, i.e. the power to make these decisions is permitted by all specified roles.

Current Number	Proposed New Delegation	Sub-Delegation	Reason for Amendment
	Registered European Lawyers (Section 4B of the Handbook) , specifically applications to extend the time for completion of the Bar Transfer Test where exemption has been granted from standard training requirements (rQ79, rQ81.2).	<u>Senior Training Supervision Officer</u> <u>Supervision and Authorisation Officer</u> Supervision and Authorisation Assistant	
28	Take decisions in relation to applications for designation of a European Lawyer as a qualified person (rS22.2.b.i).	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer <u>Senior Training Supervision Officer</u> Supervision and Authorisation Officer	See Delegation 24 re the inclusion of the “Senior Training Supervision Officer” role.
29	Take decisions in relation to applications for waivers from or modifications to the requirement to work with a qualified person as defined in rS22 of the BSB Handbook (rS20 and rS21).	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer <u>Senior Training Supervision Officer</u> Supervision and Authorisation Officer	See Delegation 24 re the inclusion of the “Senior Training Supervision Officer” role.
31	Take decisions in relation to applications for litigation extensions (rS47, rS58 and rS59).	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer <u>Senior Training Supervision Officer</u> Supervision and Authorisation Officer	See Delegation 24 re the inclusion of the “Senior Training Supervision Officer” role.

Current Number	Proposed New Delegation	Sub-Delegation	Reason for Amendment
32	Take decisions in relation to applications for waivers from or modifications to the requirements that the BSB sets to undertake Public Access work (rC120).	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer <u>Senior Training Supervision Officer</u> Supervision and Authorisation Officer	See Delegation 24 re the inclusion of the “Senior Training Supervision Officer” role.
33	Take decisions in relation to applications for waivers from or modifications to the Continuing Professional Development Regulations <u>(Part 4C Rules rQ41-rQ49)</u> (section 4C) .	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer <u>Senior Training Supervision Officer</u> Supervision and Authorisation Officer	The amendment reflects an updated reference to the applicable rules. See Delegation 24 re the inclusion of the “Senior Training Supervision Officer” role.
33(a)	Take decisions in relation to applications for waivers from or modifications to the Continuing Professional Development Regulations (section 4C) , specifically waivers from or extensions of time to complete the requirements of the Established Practitioner Programme and New Practitioner Programme <u>(Part 4C, Rules rQ41-rQ49)</u> (r15, rQ132, rQ133, rQ137) .	<u>Director of Regulatory Assurance</u> <u>Head of Assurance</u> <u>Authorisations Manager</u> <u>Senior Supervision and Authorisation Officer</u> <u>Senior Training Supervision Officer</u> <u>Supervision and Authorisation Officer</u> Supervision and Authorisation Assistant	The amendments reflect: <ul style="list-style-type: none"> • An updated reference to the applicable rules; • Clarity to the sub-delegations, i.e. the power to make these decisions is permitted by all specified roles.
35	Approve applications for licensed access under the Licensed Access Recognition Regulations	<u>Director of Regulatory Assurance</u> <u>Head of Assurance</u> <u>Authorisations Manager</u>	The sub-delegation has been amended for clarity, i.e. the power to make these decisions is permitted by all specified roles.

Current Number	Proposed New Delegation	Sub-Delegation	Reason for Amendment
		Senior Supervision and Authorisation Officer <u>Senior Training Supervision Officer</u> Supervision and Authorisation Officer	See Delegation 24 re the inclusion of the “Senior Training Supervision Officer” role.
35(a)	Approve applications for licensed access under the Licensed Access Recognition Regulations, specifically applications for amendments to or renewal of a licence, registration of an organisation accredited by the Office of the Immigration Services Commissioner (OISC) or renewal of a licence by an organisation already registered (rS24.2).	<u>Director of Regulatory Assurance</u> <u>Head of Assurance</u> <u>Authorisations Manager</u> <u>Senior Supervision and Authorisation Officer</u> <u>Senior Training Supervision Officer</u> <u>Supervision and Authorisation Officer</u> Supervision and Authorisation Assistant	The sub-delegation has been amended for clarity, i.e. the power to make these decisions is permitted by all specified roles. See Delegation 24 re the inclusion of the “Senior Training Supervision Officer” role
36	Designate Legal Advice Centres as suitable for the attendance or employment of barristers, including by imposing conditions.	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer <u>Senior Training Supervision Officer</u> Supervision and Authorisation Officer	See Delegation 24 re the inclusion of the “Senior Training Supervision Officer” role.
38	Withdraw <u>authorisation from approval an AETO Approved Training Organisation providing the academic and vocational (integrated) or vocational components / approved pathways (Part 4, B3).</u> (rQ40).	Director of Regulatory Assurance <u>Director of Strategy and Policy</u> <u>Director of Professional Conduct</u> Head of Assurance Head of Supervision Authorisations Manager	The amendments provide for the withdrawal of authorisation from a provider of the academic and vocational (integrated) or vocational components / approved pathways.

Current Number	Proposed New Delegation	Sub-Delegation	Reason for Amendment
			The sub-delegation has been limited given the potential risks and impacts associated with these decisions.
39	Take decisions in relation to applications for waivers from or modifications to the pupillage funding and advertising requirements (rC113 – rC117 and rQ61).	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer <u>Senior Training Supervision Officer</u> Supervision and Authorisation Officer	The pupillage advertising requirements will no longer feature in the Handbook but will be captured in the Bar Qualification Manual. The funding rules are part of the Equality Rules and did not need changing. See Delegation 24 re the inclusion of the “Senior Training Supervision Officer” role.
40	Register a pupillage or refuse to register a pupillage (rQ62 and rQ63).	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer <u>Senior Training Supervision Officer</u> Supervision and Authorisation Officer	Although there will no longer be a specified Handbook rule for registering pupillages, this will remain a requirement and be covered by the Bar Qualification Manual. See Delegation 24 re the inclusion of the “Senior Training Supervision Officer” role.
41	Retrospectively register a pupillage (rQ64).	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer Supervision and Authorisation Officer <u>Senior Training Supervision Officer</u>	As above. See Delegation 24 re the inclusion of the “Senior Training Supervision Officer” role

Current Number	Proposed New Delegation	Sub-Delegation	Reason for Amendment
		Supervision and Authorisation Assistant	
42	Approve, or refuse to approve, the issue of a provisional qualification certificate or a full qualification certificate or a temporary qualification certificate (rQ26-rQ28), 68 to rQ73 and rQ96 to rQ100).	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer Supervision and Authorisation Officer	The concept of qualification certificates has been removed from the Handbook but there is still a need for temporary certificates for special cases to register to be admitted to an Inn and gain a temporary practising certificate.
44	Register or refuse to register Remove a barrister as a from the register of approved pupil supervisors following investigation (rQ52 and rQ58.4).	Director of Regulatory Assurance Head of Assurance Head of Supervision Authorisations Manager	The delegation has been amended to reflect that, under the new rules, the Executive will make a decision about suitability of the barrister and, as a result, may refuse to register them in relation to a pupillage.
45	Investigate any matter which appears to affect the suitability of a barrister to continue to act as a pupil supervisor, and to dismiss any complaint, take no action or take informal action (rQ57 and rQ58).	Director of Professional Conduct Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer Supervision and Authorisation Officer Head of Investigations and Hearings Casework Manager Senior Case Officer Case Officer	The amendment to the sub-delegation distinguishes between decisions made by the Regulatory Assurance and the Professional Conduct Departments.

Current Number	Proposed New Delegation	Sub-Delegation	Reason for Amendment
49	Take decisions in relation to the equivalence of a degree awarded <u>for the purposes of academic legal training</u> outside the United Kingdom to a qualifying degree (rQ323 .1 <u>also see definition of academic legal training</u>).	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer <u>Senior Training Supervision Officer</u> Supervision and Authorisation Officer	Amendments reflect the language used in the new Qualification Rules and the Authorisation Framework. See Delegation 24 re the inclusion of the “Senior Training Supervision Officer” role
50	Take decisions in relation to applications for waivers from or modifications to the regulatory restrictions as to which persons an employed barrister may supply legal services to (rS39).	Director of Strategy and Policy Head of <u>Regulation</u> Policy Programmes Policy Manager (Professional Standards) where expressly delegated by the Director of Strategy and Policy	The amendments reflect changes to role descriptions.
51	Determine whether applications for review of decisions of the Bar Transfer Test Examining Board are referred to the Independent Reviewer	Director of Regulatory Assurance Head of Training Supervision and Examinations <u>Examinations Manager</u>	The addition of the Examinations Manager role reflects the principle of governance at the lowest appropriate level. The decision is a straightforward process of considering mitigating circumstances applications against clear criteria for sending to the IR.

b) Proposed deletion / removal of existing delegations

Number	Proposed New Delegation	Sub-Delegation	Reason for Removal
23	Take decisions in relation to activities required to supervise, monitor and ensure quality in the provision of training to meet the required standards.	Director of Regulatory Assurance Head of Training Supervision and Examinations Head of Assurance Head of Supervision Examinations Manager	The powers are already covered in delegation 22.
27	Take decisions in relation to applications for transfer of Qualified European Lawyers or registration of Registered European Lawyers (Section 4B of the Handbook).	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer Supervision and Authorisation Officer	Amendments to delegation 26 above mean that this is captured as a single delegation and better reflects the future approach to authorisations of other lawyers.
37	Take decisions in relation to applications for authorisations of Approved Training Organisations (rQ39).	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer Supervision and Authorisation Officer	This delegation should be removed as new provisions will incorporate the approach taken to authorise pupillage/Work-based learning AETOs (see delegation 37 below) in accordance with the Authorisation Framework.
43	Enter or refuse to enter a barrister on the register of approved pupil supervisors (rQ45 and rQ46).	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer Supervision and Authorisation Officer	This delegation has been removed as it is appropriately captured in Delegation 44.
47	Determine the period of time in which a person who has been refused admission to an Inn on the basis that they are not a fit and proper person or who has been expelled from an Inn because of a	Director of Regulatory Assurance Head of Assurance Head of Supervision Authorisations Manager	This delegation is no longer required as rQ6 in the new rules sets out requirements for admissions to an Inn and addresses this policy position in Schedule 1 to the MoU.

	disciplinary offence may not apply for admission to an Inn (rQ11).		Delegations relating to the Inns (and the policy positions taken therein) are captured in the new delegation 6 above.
48	Take decisions as to whether a qualifying degree is a qualifying law degree and approve a course as a conversion course (rQ22 and rQ25).	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer Supervision and Authorisation Officer	The Authorisation Framework sets out requirements for the academic component. Providers of academic and vocational (integrated) or vocational components / approved pathways will be responsible for checking prior qualifications in line with AF mandatory criteria (e.g. 7 foundations subjects). Delegation 49 (as amended above) will cover equivalence in future.

c) Proposed additions

New Number	Proposed New Delegation	Sub-Delegation	Reason for Addition
36	<u>Authorise, refuse, modify or impose conditions on providers of the academic and vocational (integrated) or vocational components / approved pathways (Part 4, B3)</u>	<u>Director of Regulatory Assurance</u> <u>Head of Training Supervision and Examinations</u> <u>Head of Assurance</u> <u>Head of Supervision</u>	This new delegated power refers to decisions about authorisation of providers to deliver the academic and vocational (integrated) or vocational components / approved pathways. The sub-delegation has been limited given the potential risks and impacts associated with these decisions.
37	<u>Authorise providers of the pupillage / work-based learning component (Part 4, B3)</u>	<u>Director of Regulatory Assurance</u> <u>Head of Assurance</u> <u>Head of Supervision</u> <u>Authorisations Manager</u> <u>Senior Supervision and Authorisation Officer</u> <u>Senior Training Supervision Officer</u> <u>Supervision and Authorisation Officer</u>	This new delegated power refers to decisions about authorisation of providers to deliver the pupillage / WBL components of Bar training. The sub-delegation mirrors that for authorisation of PTOs.
38	<u>Withdraw authorisation, refuse, modify or impose conditions on providers of the pupillage / work-based learning component (Part 4, B3)</u>	<u>Director of Regulatory Assurance</u> <u>Head of Assurance</u> <u>Head of Supervision</u> <u>Head of Training Supervision and Examinations</u>	The sub-delegation to amend an authorisation for pupillage / WBL has been limited to reflect the potential risks and impacts associated with these decisions.

Lead Responsibility

Clíodhna Judge, Head of Assurance

Chris Young, Policy Manager

Rebecca Forbes, Head of Governance and Corporate Services

Scheme of Delegations

The Board is responsible for creating an organisational structure capable of meeting its regulatory obligations and implementing its strategic plan by establishing and maintaining a scheme of delegations. This scheme of delegations therefore describes the authority granted by the Board to its committees and executive to carry out regulatory functions on its behalf.

The scheme comprises:

- A. delegation from the Board to the Director General
- B. sub-delegation of Board powers from the Director General to the executive
- C. delegation from the Board to other bodies, listed in the Standing Orders
- D. delegation from the Board to other bodies, not listed in the Standing Orders
- E. delegation from the Governance, Risk and Audit (GRA) Committee to the Director General
- F. sub-delegation of GRA powers from the Director General to the executive
- G. delegation from the Chief Executive Officer of the General Council of the Bar to the Director General
- H. delegation from the Professional Conduct Committee to the executive

A. The Bar Standards Board delegates the powers below to the Director General, including the power to sub-delegate, to:	B. The Director General sub-delegates the powers granted by the Board as specified in column A, in accordance with decision-making criteria, to:
REGULATORY POLICY	
1. Approve formal / published guidance on the interpretation of rules and regulations.	Any Director
2. Make changes to the rules, including the Handbook, as approved by the Legal Services Board through the exempt application process.	Director of Professional Conduct Director of Regulatory Assurance Director of Strategy and Policy
3. Implement regulatory changes and policies that enact exempt changes.	Director of Professional Conduct Director of Regulatory Assurance Director of Strategy and Policy

4. Implement rules, systems or procedures required to give effect to policies and regulatory arrangements previously agreed by the Board.	Director of Professional Conduct Director of Regulatory Assurance Director of Strategy and Policy
5. Grant waivers from or modifications to requirements of the Handbook where appropriate, other than those requirements which are separately delegated within this Scheme of Delegations.	Director of Professional Conduct Director of Regulatory Assurance Director of Strategy and Policy
6. Issue guidance to the Inns' Conduct Committee <u>or the Council of the Inns of Court</u> to follow in carrying out <u>their</u> functions <u>as set out in Part 4 of the Handbook and any Memorandum of Understanding between the parties</u> , and ask for information about the performance of those functions (<u>Part 4, Section B rQ6427</u>).	Director of Professional Conduct Director of Strategy and Policy <u>Director of Regulatory Assurance</u>
SUPERVISION	
7. Approve a decision to take supervisory action, to take no action or to refer the case to the Professional Conduct Department.	Director of Regulatory Assurance Head of Assurance Head of Supervision Senior Supervision and Authorisation Officer Senior Training Supervision Officer Supervision and Authorisation Officer
BSB ENTITY AUTHORISATION / LICENSING	
8. Authorise or license entity applications (rS85, rS86, and rS99).	Director of Regulatory Assurance Head of Assurance Head of Supervision Authorisations Manager Senior Supervision and Authorisation Officer

	Senior Training Supervision Officer Supervision and Authorisation Officer
9. Refuse to authorise or license entity applications (rS85, rS86, and rS99, rS101, and rS102).	Director of Regulatory Assurance Head of Assurance Authorisations Manager
10. Revoke or suspend authorisations / licences of BSB entities (rS117, rS130 and rS133).	Director of Regulatory Assurance Head of Assurance
11. Impose conditions, obligations or terms on or modify a BSB entity's authorisation or licence at any point (rS113, rS114 and rS116).	Director of Regulatory Assurance Head of Assurance Head of Supervision Authorisations Manager
12. Extend the decision period for considering entity applications (rS97).	Director of Regulatory Assurance Head of Assurance Head of Supervision Authorisations Manager Senior Supervision and Authorisation Officer Senior Training Supervision Officer Supervision and Authorisation Officer
13. Approve an owner, manager, Head of Legal Practice (HOLP) or Head of Finance and Administration (HOFA), including emergency / temporary HOLPs or HOFAs (rS103, rS108, rS109 and rS132).	Director of Regulatory Assurance Head of Assurance Head of Supervision Authorisations Manager Senior Supervision and Authorisation Officer

	Senior Training Supervision Officer Supervision and Authorisation Officer
14. Reject an owner, manager, Head of Legal Practice (HOLP) or Head of Finance and Administration (HOFA), including emergency/temporary HOLPs or HOFAs (rS104 - rS110).	Director of Regulatory Assurance Head of Assurance Head of Supervision Authorisations Manager
15. Provide express written consent to the appointment of a person who has been disqualified as an employee of a barrister in chambers (rC89.3).	Director of Regulatory Assurance Head of Assurance Head of Supervision Authorisations Manager
16. Provide express written consent to the appointment of a person as a HOLP, HOFA, manager or employee of an entity who has been disqualified (rC92).	Director of Regulatory Assurance Head of Assurance Head of Supervision Authorisations Manager
INTERVENTION	
17. Authorise the use of intervention action in accordance with the powers set out at Schedule 14 to the Legal Services Act 2007, as modified by The Legal Services Act 2007 (General Council of the Bar) (Modification of Functions) Order 2018.	Director of Professional Conduct Director of Regulatory Assurance Director of Strategy and Policy
PROVISION OF INFORMATION	
18. Authorise the issue of a notice requiring the production of documents and/or provision of information in relation to a licensed body (section 93 Legal Services Act 2007 and rC64.4).	Director of Professional Conduct Senior Professional Support Lawyer Head of Investigations and Hearings Team

<p>19. Authorise the issue of a notice requiring the production of documents and/or provision of information in relation to a BSB authorised individual or BSB authorised body (Article 5 Legal Services Act 2007 (General Council of the Bar) (Modification of Functions) Order 2018 and rC64.4).</p>	<p>Director of Professional Conduct Senior Professional Support Lawyer Head of Investigations and Hearings Team</p>
EDUCATION AND ASSESSMENTS	
<p>20. Implement rules, systems or procedures required to give effect to policies and regulatory arrangements previously agreed by the Board with regard to formal assessment of standards for qualification / authorisation.</p>	<p>Head of Training Supervision and Examinations Examinations Manager</p>
<p>21. Implement rules, systems or procedures required to give effect to policies and regulatory arrangements previously agreed by the Board with regard to training specification requirements and delivery.</p>	<p>Head of Training Supervision and Examinations Head of Assurance Head of Supervision</p>
<p>22. Take decisions in relation to the approval, refusal and rescinding of approval of individuals and organisations to provide training, supervision or assessment where required by the regulations, and the contracting of services for training delivery where not specified in the regulations.</p>	<p>Director of Regulatory Assurance Director of Strategy and Policy Head of Training Supervision and Examinations Head of Assurance Head of Supervision Authorisations Manager</p>
<p>Take decisions in relation to activities required to supervise, monitor and ensure quality in the provision of training to meet the required standards.</p>	<p>Director of Regulatory Assurance Head of Training Supervision and Examinations Head of Assurance Head of Supervision</p>

	Examinations Manager
AUTHORISATIONS AND WAIVERS	
23. Take decisions in relation to applications for exemption from, or modifications to, any requirement of the Bar <u>Qualification Training Rules</u> (Section 4 <u>Part 4, Section B of the Handbook</u>), except the power in rQ644 which is covered by Delegation 644 .	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer <u>Senior Training Supervision Officer</u> Supervision and Authorisation Officer
24. Take decisions in relation to applications for waivers from membership of BMIF (rC77).	Director of Professional Conduct Director of Regulatory Assurance Director of Strategy and Policy
25. Take decisions in relation to applications for <u>transferring lawyers</u> (<u>rules rQ7 - rQ28</u>) and the registration of <u>European Lawyers as Registered European Lawyers (Rules rQ17 – rQ22 and Section 3 D) of Qualified Solicitors and Qualified Foreign Lawyers</u> Section 4B of the Handbook).	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer <u>Senior Training Supervision Officer</u> Supervision and Authorisation Officer
26. Take decisions in relation to applications for transfer of Qualified European Lawyers or registration of Registered European Lawyers (Section 4B of the Handbook).	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer <u>Senior Training Supervision Officer</u> Supervision and Authorisation Officer

<p>267(a) Take decisions in relation to applications for <u>exemptions from, or modifications to, any requirement for transferring lawyers (Rules Rq7 – rQ28), of Qualified Solicitors, Qualified Foreign Lawyers or Qualified European Lawyers or registration as Registered European Lawyers (Section 4B of the Handbook)</u>, specifically applications to extend the time for completion of the Bar Transfer Test where exemption has been granted from standard training requirements (rQ79, rQ81.2).</p>	<p><u>Director of Regulatory Assurance</u> <u>Head of Assurance</u> <u>Authorisations Manager</u> <u>Senior Supervision and Authorisation Officer</u> <u>Senior Training Supervision Officer</u> <u>Supervision and Authorisation Officer</u> Supervision and Authorisation Assistant</p>
<p>27. Take decisions in relation to applications for designation of a European Lawyer as a qualified person (rS22.2.b.i).</p>	<p>Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer <u>Senior Training Supervision Officer</u> Supervision and Authorisation Officer</p>
<p>28. Take decisions in relation to applications for waivers from or modifications to the requirement to work with a qualified person as defined in rS22 of the BSB Handbook (rS20 and rS21).</p>	<p>Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer <u>Senior Training Supervision Officer</u> Supervision and Authorisation Officer</p>
<p>29. Designate a person as unsuitable to be a qualified person (rS22).</p>	<p>Director of Regulatory Assurance Head of Assurance Authorisations Manager</p>
<p>30. Take decisions in relation to applications for litigation extensions (rS47, rS58 and rS59).</p>	<p>Director of Regulatory Assurance Head of Assurance</p>

	<p>Authorisations Manager</p> <p>Senior Supervision and Authorisation Officer</p> <p><u>Senior Training Supervision Officer</u></p> <p>Supervision and Authorisation Officer</p>
31. Take decisions in relation to applications for waivers from or modifications to the requirements that the BSB sets to undertake Public Access work (rC120).	<p>Director of Regulatory Assurance</p> <p>Head of Assurance</p> <p>Authorisations Manager</p> <p>Senior Supervision and Authorisation Officer</p> <p><u>Senior Training Supervision Officer</u></p> <p>Supervision and Authorisation Officer</p>
32. Take decisions in relation to applications for waivers from or modifications to the Continuing Professional Development Regulations <u>(Part 4C Rules rQ41-rQ49)</u> (section 4C) .	<p>Director of Regulatory Assurance</p> <p>Head of Assurance</p> <p>Authorisations Manager</p> <p>Senior Supervision and Authorisation Officer</p> <p><u>Senior Training Supervision Officer</u></p> <p>Supervision and Authorisation Officer</p>
32 ³ (a) Take decisions in relation to applications for waivers from or modifications to the Continuing Professional Development Regulations (section 4C) , specifically waivers from or extensions of time to complete the requirements of the Established Practitioner Programme and New Practitioner Programme <u>(Part 4C rules rQ41-rQ49) Part 4, (r15, rQ132, rQ133, rQ137)</u> .	<p><u>Director of Regulatory Assurance</u></p> <p><u>Head of Assurance</u></p> <p><u>Authorisations Manager</u></p> <p><u>Senior Supervision and Authorisation Officer</u></p> <p><u>Senior Training Supervision Officer</u></p> <p><u>Supervision and Authorisation Officer</u></p> <p>Supervision and Authorisation Assistant</p>

33. Exercise all powers under the Licensed Access Recognition Regulations.	Director of Regulatory Assurance Head of Assurance Authorisations Manager
34. Approve applications for licensed access under the Licensed Access Recognition Regulations.	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer Senior Training Supervision Officer Supervision and Authorisation Officer
34 5 (a) Approve applications for licensed access under the Licensed Access Recognition Regulations, specifically applications for amendments to or renewal of a licence, registration of an organisation accredited by the Office of the Immigration Services Commissioner (OISC) or renewal of a licence by an organisation already registered (rS24.2).	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer Senior Training Supervision Officer Supervision and Authorisation Officer Supervision and Authorisation Assistant
35. Designate Legal Advice Centres as suitable for the attendance or employment of barristers, including by imposing conditions.	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer Senior Training Supervision Officer Supervision and Authorisation Officer
Take decisions in relation to applications for authorisations of Approved Training Organisations (rQ39).	Director of Regulatory Assurance

	Head of Training Supervision and Examinations Head of Assurance Head of Supervision Authorisations Manager Senior Supervision and Authorisation Officer Supervision and Authorisation Officer
36. Authorise, refuse, modify or impose conditions on providers of the academic and vocational (integrated) or vocational components / approved pathways (Part 4, B3)	Director of Regulatory Assurance Head of Training Supervision and Examinations Head of Assurance Head of Supervision
37. Authorise providers of the pupillage / work-based learning component (Part 4, B3)	Director of Regulatory Assurance Head of Assurance Head of Supervision Authorisations Manager Senior Supervision and Authorisation Officer Senior Training Supervision Officer Supervision and Authorisation Officer
38. Withdraw authorisation, refuse, modify or impose conditions on providers of the pupillage / work-based learning component of Bar training (Part 4, B3)	Director of Regulatory Assurance Head of Assurance Head of Supervision Head of Training Supervision and Examinations
36-39. Withdraw a authorisation from approval an AETO Approved Training Organisation providing the academic and vocational (integrated) or vocational components / approved pathways (Part 4, B3)(rQ40).	Director of Regulatory Assurance Director of Strategy and Policy Director of Professional Conduct

	<p>Head of Assurance</p> <p>Head of Supervision</p> <p>Authorisations Manager</p>
<p>37.40. Take decisions in relation to applications for waivers from or modifications to the pupillage funding and advertising requirements (rC113 – rC117 and rQ61).</p>	<p>Director of Regulatory Assurance</p> <p>Head of Assurance</p> <p>Authorisations Manager</p> <p>Senior Supervision and Authorisation Officer</p> <p><u>Senior Training Supervision Officer</u></p> <p>Supervision and Authorisation Officer</p>
<p>38.41. Register a pupillage or refuse to register a pupillage (rQ62 and rQ63).</p>	<p>Director of Regulatory Assurance</p> <p>Head of Assurance</p> <p>Authorisations Manager</p> <p>Senior Supervision and Authorisation Officer</p> <p><u>Senior Training Supervision Officer</u></p> <p>Supervision and Authorisation Officer</p>
<p>39.42. Retrospectively register a pupillage (rQ64).</p>	<p>Director of Regulatory Assurance</p> <p>Head of Assurance</p> <p>Authorisations Manager</p> <p>Senior Supervision and Authorisation Officer</p> <p>Supervision and Authorisation Officer</p> <p>Supervision and Authorisation Assistant</p>
<p>40.43. Approve, or refuse to approve, the issue of a provisional qualification certificate or a full qualification certificate or a</p>	<p>Director of Regulatory Assurance</p> <p>Head of Assurance</p> <p>Authorisations Manager</p>

temporary qualification certificate (rQ26-28).68 to rQ73 and rQ96 to rQ100).	Senior Supervision and Authorisation Officer Supervision and Authorisation Officer
Enter or refuse to enter a barrister on the register of approved pupil supervisors (rQ45 and rQ46).	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer Supervision and Authorisation Officer
41.44. Register or refuse to register Remove a barrister as a from the register of approved pupil supervisors following investigation. (rQ52 and rQ58.4).	Director of Regulatory Assurance <u>Head of Supervision</u> Head of Assurance Authorisations Manager
42.45. Investigate any matter which appears to affect the suitability of a barrister to continue to act as a pupil supervisor, and to dismiss any complaint, take no action or take informal action (rQ57 and rQ58).	Director of Professional Conduct Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer Supervision and Authorisation Officer Head of Investigations and Hearings Casework Manager Senior Case Officer Case Officer
43.46. Waive, or refuse to waive, any fee generally charged by the BSB for any application for waiver from or authorisation under any provision of the BSB Handbook.	Director of Regulatory Assurance Head of Assurance Authorisations Manager

	Senior Supervision and Authorisation Officer Supervision and Authorisation Officer
Determine the period of time in which a person who has been refused admission to an Inn on the basis that they are not a fit and proper person or who has been expelled from an Inn because of a disciplinary offence may not apply for admission to an Inn (rQ11).	Director of Regulatory Assurance Head of Assurance Head of Supervision Authorisations Manager
Take decisions as to whether a qualifying degree is a qualifying law degree, and approve a course as a conversion course (rQ22 and rQ25).	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer Supervision and Authorisation Officer
44.47. Take decisions in relation to the equivalence of a degree awarded <u>for the purposes of academic legal training</u> outside the United Kingdom to a qualifying degree (rQ3.1 <u>also see definition of academic legal training</u> 23).	Director of Regulatory Assurance Head of Assurance Authorisations Manager Senior Supervision and Authorisation Officer Senior Training Supervision Officer Supervision and Authorisation Officer
45.48. Take decisions in relation to applications for waivers from or modifications to the regulatory restrictions as to which persons an employed barrister may supply legal services to (rS39).	Director of Strategy and Policy Head of <u>Regulation</u> Policy <u>Programmes</u> Policy Manager (<u>Professional Standards</u>) where expressly delegated by the Director of Strategy and Policy
Signed on behalf of the Bar Standards Board _____ date _____	Signed by the Director General _____ date _____

C. The Bar Standards Board delegates the power to the following to:	
<u>46-49.</u> Determine any request for review made under Part 4 2B, Part 3 C6, Part 3 E11, or Part 4 B10 of the Handbook, or review of decisions taken under Part 1 4A of the Handbook and exercise the powers under rQ109.	Authorisations Review Panels
D. The Bar Standards Board delegates the power to the following to:	
<u>47-50.</u> Determine whether applications for review of decisions of the Bar Transfer Test Examining Board are referred to the Independent Reviewer.	Director of Regulatory Assurance Head of Training Supervision and Examinations Examinations Manager
<u>48-51.</u> Determine applications for review of decisions of the Bar Transfer Test Examining Board.	Independent Reviewer (external independent contractor)
<u>49-52.</u> Determine whether applications for review of cohort-level decisions of central assessments are referred to the Independent Reviewer.	Director of Regulatory Assurance Head of Training Supervision and Examinations Examinations Manager
<u>50-53.</u> Determine applications for review of cohort-level decisions of central assessments.	Independent Reviewer (external independent contractor)
<u>51-54.</u> Make arrangements for the conduct of disciplinary hearings and take disciplinary action according to the regulatory arrangements in respect of entities, their managers and employees.	Bar Tribunals and Adjudication Service
Signed on behalf of the Bar Standards Board	
_____ date _____	

E. The Governance, Risk and Audit Committee (GRA) delegates the power to the Director General, including the power to sub-delegate, to:	F. The Director General sub-delegates the powers granted by the Governance, Risk and Audit Committee (GRA) as specified in column E to:
<p>52-55. Approve terms of reference for, and arrangements for the conduct of, audits commissioned by the Governance, Risk and Audit Committee (including those agreed in the annual audit plan), providing that terms of reference for each audit are circulated to the Committee in advance of the audit.</p>	<p>Director of Regulatory Assurance Corporate Support Manager</p>
<p>Signed on behalf of the Governance, Risk and Audit Committee</p> <p>_____ date _____</p>	<p>Signed by the Director General</p> <p>_____ date _____</p>
G. The Chief Executive Officer of the General Council of the Bar delegates the power to the following to:	
<p>53-56. Direct the Records Office in the conduct of its regulatory functions, including issuing, amending, endorsing and revoking practising certificates.</p>	<p>Director General</p>
<p>Signed by the Chief Executive Officer of the General Council of the Bar</p> <p>_____ date _____</p>	

H. The Professional Conduct Committee, on behalf of the Bar Standards Board (by delegation within Annex 2d of the Standing Orders) delegates the power to the Executive team in accordance with the following table which is updated on a regular basis:

[https://www.barstandardsboard.org.uk/media/1699744/150810 - p09 - authorisations under part 5 - table - annex 1 live updated september 2015 .pdf](https://www.barstandardsboard.org.uk/media/1699744/150810_-_p09_-_authorisations_under_part_5_-_table_-_annex_1_live_updated_september_2015_.pdf)

Meeting:	Bar Standards Board	Date:	28 March 2019
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Title:	Amendment to Standing Orders
Author:	Rebecca Forbes
Post:	Governance Manager

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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Recommendations

<p>1. The Board is asked to:</p> <p>i) Approve the revised date for BSB Standing Orders 2019 to come into force, so that they take effect from 15 October 2019 (instead of 1 June 2019), and</p> <p>ii) Approve the revisions to Standing Orders 2018 so that the references to the date of establishment of the IDB are 15 October 2019 (instead of 1 June 2019).</p>
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Executive Summary

<p>2. In October 2018, the Board approved BSB Standing Orders 2018 to come into force on 5 November 2018 and BSB Standing Orders 2019 to come into force on 1 June 2019. The Standing Orders 2018 were necessary to allow the Independent Decision-Making Body (IDB) to be established but without decision-making powers so that an interim IDB Chair could be appointed and the membership recruited. The June 2019 version is to replace the first and will give the IDB its standing powers and allow it to carry out its necessary decision-making functions. The permanent Standing Orders will:</p> <ul style="list-style-type: none"> • remove the provisions relating to the Professional Conduct Committee as that body will cease to exist on 14 October 2019 (or any other revised date agreed by the Board); • include reporting requirements necessary to monitor the performance of the IDB; and • include the restrictions necessary to prevent the IDB Chair from holding a seat on the Board. <p>3. As the IDB is now to come into being on 15 October 2019 instead of 1 June (to allow it to benefit fully from our new Case Management System, which is still in development), the version of Standing Orders intended to come into effect on 1 June 2019 should now come into effect on 15 October 2019. The Standing Orders 2018 contain three references to the 1 June 2019 date (within the Terms of Reference for the IDB), and those dates should also be amended whilst this version remains in effect.</p>

Risk

<p>4. The Board has previously agreed all substantive amendments to its Standing Orders. There is a risk that its published Standing Orders continue to specify the superseded date, with potential for confusion amongst the profession, those appointed to serve on the IDB, and the public.</p>
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Resources (Finance, IT, HR)

5. These minor amendments to Standing Orders have no impact on resources.

Equality & Diversity

6. Equality and diversity issues that might arise from creating the IDB were subject to an Equality Impact Assessment and such issues formed part of the public consultation: the results of which were previously considered by the Board. These minor amendments to Standing Orders (to dates only) are not considered to give rise to any separate equality and diversity issues.

Chair’s Report on Visits and External Meetings from February 2019

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:

13 February 2019	Attended the Court of Appeal, and sat with Sir Brian Leveson observing his case.
12 March 2019	Attended the Chairs’ Committee meeting
13 March 2019	Attended the Society of Legal Scholars Reception
25 March 2019	Attended the Board briefing meeting
27 March 2019	Attended the ISAG meeting
28 March 2019	Attended the BSB/LeO Board to Board meeting