

# annual report 2008

BAR  
STANDARDS  
BOARD

REGULATING BARRISTERS

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## Our mission

**Our mission is to be recognised as promoting and safeguarding the highest standards of legal education and practice in the interests of clients, the public and the profession.**

## Our principles

In carrying out our activities, we will

### Work in the public interest

We will place the public interest at the heart of our work. This will be central to all our decisions.

### Be independent and evidence-based

We will undertake research and consult relevant stakeholders to ensure that our decisions are reached on the basis of the best available evidence.

### Be transparent in our procedures

Our decisions will be transparent and reasoned, and our processes open to scrutiny.

### Be accountable for our performance and expenditure

We will account for and publish our progress against our work plan and measure success against the goals we set and work in a way which is cost-effective.

### Consult and work in partnership with others

We will consult interested and relevant parties before adopting any policy, and will work with other stakeholders in the justice system to advance the public interest.

### Operate risk-based regulation

We will concentrate on those areas where the public is most at risk and will not impose regulations which are disproportionate to the risk.

### Encourage diversity

We will promote diversity and equality both throughout the Bar and within the organisation. We will adopt processes and procedures that are fair, objective, transparent and free from discrimination.

### Value our staff

We will ensure that our staff receive appropriate training, are encouraged in their career development and are valued for the contribution that they bring to our work.

# Chair's foreword

2008 was our third year of operation. It was a year of delivery and challenge. We have moved from the setting up phase of our first year, through the production of our three-year strategic plan, and into the delivery and results of this past year.

**It is important to reflect on our core purpose. The vast majority of barristers provide excellent services, but a small number do not. No system of regulation could ever eliminate the risk that some barristers may work less effectively and competently. Our role is to reduce that risk, through working with the profession to improve standards, and to ensure that the public understands the role of barristers, and routes for complaint and redress.**

We must never lose sight of the fact that the regulation of the Bar is about people, both the profession and the public.

**Our mission is:** to be recognised as promoting and safeguarding the highest standards of legal education and practice in the interests of clients, the public and the profession.

We have identified the main strands of work done to support the mission: quality assurance in education, standards and service delivery of all aspects of our strategic plan, but particularly in relation to complaints. The past 12 months have seen us make progress across a number of projects, some of which will stretch into the future as we manage and prioritise our resources.

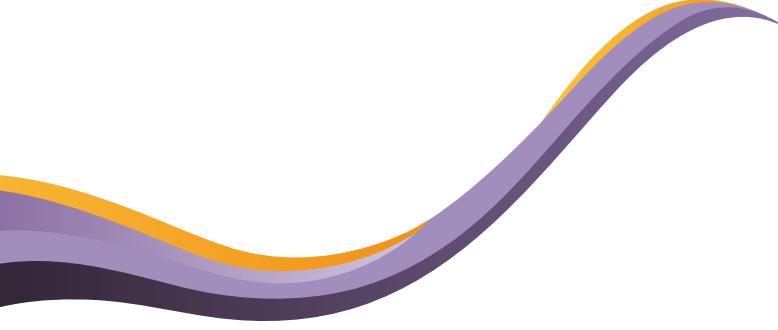


*Ruth Evans*  
Chair

## Challenges and delivery

The last three years have been enormously productive and challenging. Alongside our regulatory activities, we have also delivered improved systems for measuring our performance and managing our work. The Board has succeeded in establishing a cost effective, proportionate and appropriate model of regulation for the Bar which serves the public interest. In particular, we have set in place the governance structures, strategic objectives and the delivery processes necessary for the implementation of a risk-based regime of regulation.

The independence of the Bar Standards Board continues to be an issue of regulatory interest. On the majority of issues there will be a shared vision between the representative body for the profession, the Bar Council, and the regulator. There will, however, be occasions where the Bar Standards Board, in discharging its independent regulatory accountability, has to differ publicly or to approach issues from a different perspective to the representative body. The Bar Standards Board has a clear remit to act in the public interest and to ensure that the profession does not fetter, constrain, or deprive itself of resources in its independent regulatory capacity.



Importantly, over the years we have secured the necessary budgets, based on sound business planning, to maximise cost effectiveness for a small profession, also ensuring value for money. In 2008 it has driven down our share of the practising certificate fee, and guaranteed the viability of the Bar Standards Board.

## Complaints handling

Dr Ann Barker joined the Bar Standards Board on 1 July 2008, as the new Complaints Commissioner, taking over from Ros Gardner, the Interim Complaints Commissioner. As well as welcoming Dr Barker, I would like to thank Ros Gardner for her work. Ros built upon the input from Robert Behrens to enhance the complaints handling service of the Bar Standards Board. The work was endorsed by the independent Legal Services Ombudsman, Zahida Manzoor CBE. The Ombudsman welcomed the former Complaints Commissioner Robert Behrens' report, *A Strategic Review of Complaints and Disciplinary Processes*, saying it represented an opportunity to build on the Board's innate strengths, at a time of change.

The annual report of the Ombudsman showed a positive improvement in levels of user satisfaction in the Bar Standard Board's handling of their complaints. The number of cases referred to the Ombudsman by dissatisfied complainants fell from 166 in 2006/7 to 138 in 2007/8.

## Education

A new aptitude test for students wishing to enter the Bar Vocational Course (BVC), renaming the course to the Bar Professional Training Course (BPTC), and a wide range of improvements to update the course and make it more fit for purpose, were among the key recommendations of a report from the working group, chaired by Derek Wood QC.

The new look BPTC will place professional ethics, advocacy and dispute resolution at the centre of the training for the Bar. The involvement of members of the public in sessions to develop client handling skills is also recommended. Following a successful annual conference to discuss the working group's recommendations, the improvements to the standards of education will be implemented in 2009 and kept under continuous review.

## Working in partnership

I personally welcomed the establishment of the Legal Services Board in 2008, chaired by David Edmonds. The Bar Standards Board is committed to working in partnership, and in the public interest, to see the implementation and opening of the Office of Legal Complaints.

## Bar Standards Board staff

I have enjoyed working with colleagues at the Bar Standards Board and the Bar Council during this start up period. As I complete my tenure as Chair, I would also like to pay tribute to our Vice Chair, George Leggatt QC, who is also departing. I cannot praise highly enough George's wise counsel, the depth of his knowledge and experience, and his steadfast support.

The future of the Bar Standards Board is assured, and I am delighted with the progress that its new Director, Mandie Lavin, has made in her first six months, building on the work of Mark Stobbs. Mandie has supported the Board's way of working, combining the skills and knowledge of the very best at the Bar with the broad experience and expertise of lay members. I am confident that our superb Board, supported by its excellent staff, is well prepared to meet the challenges ahead.

I would also like to give a very warm welcome to Baroness Ruth Deech, who joined the Bar Standards Board as Chair on 1 January 2009, along with Sir Geoffrey Nice QC as Vice Chair. I wish them well in serving the public interest through the work of the Bar Standards Board.

*"I am confident that our superb Board, supported by its excellent staff, is well prepared to meet the challenges ahead."*

*Ruth Evans*  
**Chair**

# Director's report

Our Chair has already reported that 2008 was a year of challenge, and also a year of delivery. 2008 was the second year of our strategic plan, and I am pleased to report that the Board has made major progress in delivering its objectives.

I joined the Board partway through the year and would like to thank my predecessor, Mark Stobbs, for establishing a strong team and for developing our first business plan. I would also like to add my recognition of the major contributions from Ruth Evans and George Leggatt QC, who have had an enormous impact and have given us a strong foundation on which to build. I must also thank them for their unstinting support during my induction and early months as Director.

The year ended with completion of complex pieces of work, such as the review of the Bar Vocational Course (BVC), and the consultations on the impact of the Legal Services Act 2007 on the regulation of the Bar of England and Wales. The vast majority of the work required to complete the implementation of the Strategic Review of Complaints was also delivered in 2008.

Through the transition and establishment phases, the Board and the Bar Council have worked together to meet the needs of the profession and the public to provide legal services of a very high quality. The economic conditions have the effect of emphasising that good regulation is an essential part of protecting the public interest.

It is worth restating that our primary responsibility is to deliver the following regulatory activities:

- setting the education and training requirements for entry to the profession so that those willing to practise as barristers have the right competencies to provide services to clients;
- setting continuing training requirements (continuing professional development 'CPD') to ensure barristers' skills are maintained throughout their careers;
- setting standards for those practising at the Bar and the enforcement of professional rules of conduct;
- monitoring the service provided by barristers focusing on areas of risk to ensure quality;
- handling complaints against barristers and taking disciplinary or other action where appropriate.



*Mandie Lavin  
Director*

The plan for 2008 included a number of major projects across all of these areas. Some will stretch across timescales beyond this report and beyond our current strategic plan, which will operate until the end of 2009 (see below).



In 2008 our workloads were running at unprecedented levels. Our programme of far-reaching reform continues, which ensures that the Board's contribution to regulation is fit for purpose now and in the future. The development of a risk-based approach to regulation was designed to keep the regulatory burden under scrutiny, whilst also delivering the strategic objectives defined by the Board. The work of the Legal Services Board will increasingly influence and set the regulatory agenda. Rising to this challenge will be the core of our work over the period of the next strategic plan. We look forward to working constructively with the Legal Services Board and Office of Legal Complaints, engaging with them in what will be an increasingly important part of our work.



As Director, I also want the Bar Standards Board to be a great place to work, supporting staff to use and to develop their talents. Realising the potential of our staff will enable us to better serve the profession, and the public. The work of the Committees has also driven the major progress achieved in 2008. Their work, and that of the staff of the Bar Standards Board, is also commended. I would also like to recognise the excellent support from the shared Central Services team of the Bar Council.

In the report which follows, I will outline our core areas of activity and also provide an analysis of our financial data.

I also very much welcome the appointment of Baroness Ruth Deech as Chair and Sir Geoffrey Nice QC as Vice Chair. Both have already made a very positive impact in developing the future regulation of the Bar in the public interest and working with the profession.

This report would not be complete without a tribute to the Inns of Court and the staff who support the Inns' work. As a member of Middle Temple, I am especially grateful for the immense support for our work from the Inns.



*"Our programme of far-reaching reform continues."*

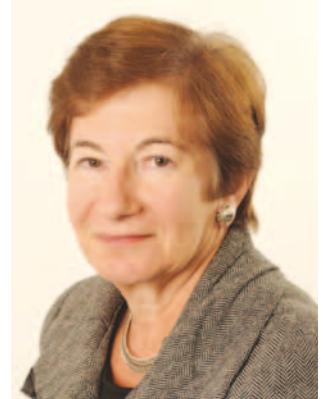
*Mandie Lavin*  
**Director**

# Looking ahead

2009 will see the Bar Standards Board and its committees complete the implementation of the three-year strategic plan.

## At the start of 2009 we have already:

- issued our first consultation document on a comprehensive review of the Code of Conduct for barristers;
- appointed a new Independent Observer, Alan Baines;
- made improvements to the system for handling complaints against barristers, including new disciplinary tribunal processes;
- held our second Clementi debate on the theme of Quality at what cost?
- embarked on a major review of Pupillage.



*Ruth Deech  
Chair*

As the new Chair from the start of 2009, I would like to thank Ruth Evans, George Leggatt QC, Committee members and staff who have departed for their work in establishing and building the current Bar Standards Board. The Committee members and staff of the Bar Standards Board have an ambitious programme of activities ahead. We will continue to strive to help the profession to deliver the best services for the public and to work constructively with the Bar Council, the Legal Services Board and the Office for Legal Complaints.

I very much look forward to the continuing support of the Inns of Court and to working with the Board, my Vice Chairman Sir Geoffrey Nice QC, Committee members, Mandie Lavin, her excellent team and also getting to know the needs of the public and the issues for the profession.

*Ruth Deech  
Chair  
(from 1 January 2009)*

# Implementation of strategic plan objectives

In the strategic plan for 2007-2009, five strategic objectives were identified. The Board recognised that an effective regulator of the Bar would need to attain all of these objectives, to ensure public and professional confidence.

## Objective 1 – Protecting consumers

To establish systems to identify areas of risk to consumers; to take action to remedy poor performance by barristers (or members of the profession) where things go wrong, and to provide an efficient and fair complaints and disciplinary system.

### Achievements

- The review of the Bar Vocational Course (BVC) was completed under the Chairmanship of Derek Wood QC.
- The new course, the Bar Professional Training Course (BPTC) handbook has been produced.
- The wide variety of necessary actions is being undertaken to implement the strategic review of Complaints and Disciplinary Processes by 31 March 2009.

## Objective 2 – Access to justice

To promote accessible and flexible high quality legal services in a competitive market.

### Achievements

- The first consultation document on the Legal Services Act 2007 was issued and closed. A second consultation document on specific aspects of Legal Disciplinary Practices and Partnerships of Barristers was issued in December 2008.
- A fundamental review of the Code of Conduct began with significant progress in 2008.
- A review of the Public Access rules continued throughout 2008, to ensure that the rules promote access to justice adequately, and in the public interest.

## Objective 3 – Independent regulation

To be recognised as a respected, independent regulator operating according to best regulatory principles with the confidence of the Legal Services Board, consumers, the Bar and other stakeholders.

### Achievements

- Ongoing discussion with the Bar Council and the Inns of Court to ensure that our constitutional arrangements and resources provide properly for our independence and effectiveness.
- We adopted the principles of better regulation in our work to ensure that regulation is proportionate, accountable, consistent, transparent and targeted. These principles will inform the way we do business.
- Our website has become an invaluable tool for providing information and engaging with parties interested in, and affected by, our work.

## Objective 4 – Excellence and quality

To promote excellence and quality within the profession and ensure that those who qualify as barristers have the right level of skills and knowledge to provide services to the public, including employers.

### Achievements

- As already mentioned, the major review of the BVC was completed and published in July 2008 then presented at a successful annual conference of course providers.
- Revised training regulations were finalised and forwarded to the Ministry of Justice, for subsequent approval.
- The major Pupillage review began in October 2008.
- The pilot Chambers Monitoring project was carried out and reported to the Board in December 2008.

## Objective 5 – Diversity

To promote diversity in the profession so that those with the right abilities are able to make a career as a barrister irrespective of their background, race, religion, gender, sexual orientation, disability or age.

### Achievements

- An equality & diversity strategy and action plan was developed and approved by the Board.
- Equality & diversity training was carried out for Board and Committee members and continues in 2009.
- An equality & diversity section was introduced on the website.
- Equality and diversity was incorporated in the pilot Chambers Monitoring project as a priority area for the review of Chambers' policies and practices.

# Progress with key aims

In delivering the strategic objectives, five key organisational aims were also identified in our 2008 Business Plan.

## **Key aim 1 – Carry out our regulatory activities effectively and efficiently**

It is imperative that we continue to fulfil our regulatory responsibilities. This is essential for the protection and promotion of the public interest and for the maintenance and development of a strong, high-quality independent Bar.

Now that we have been operating for nearly three years, we are able to reflect on steps that can be made to improve the way in which we carry out these important duties. We must also consider how best we should liaise in the future, with the Legal Services Board, the Legal Services Ombudsman and Office for Legal Complaints.

### **Progress**

- We will be implementing the recommendations of the Complaints Commissioner's Strategic Review, looking at adopting greater use of online services and, more importantly, we will be developing a published service standard for these areas so we can improve our accountability.

## **Key aim 2 – Improve our internal business processes including planning, evaluation, risk and financial controls**

### **Progress**

- 2008 saw considerable progress in developing our internal business processes as evidenced by the development of a fully costed business plan. We can and must make further improvements if we are to ensure we deliver best value and call only as appropriate on the Practising Certificate Fee.
- Developing a systematic approach to managing risk will help to ensure we are equipped to anticipate and meet changing circumstances.
- Establishment of a risk register at both corporate and committee levels.

## **Key aim 2a – Measure our performance**

We are committed to accountability for our performance and expenditure. In addition to the work we will undertake to improve our internal business processes, we also believe it is important to establish measurable goals for our work. We are developing our key performance indicators (KPIs) now, and these will be published and reported on in 2009.

### **Progress**

- Key performance indicators are still under development. More work is underway in 2009.

## Key aim 3 – Deliver high quality services to barristers, consumers and others

We deliver a number of front-line services such as complaints handling and investigation, CPD course and provider accreditation and CPD compliance monitoring. We believe the way in which we deliver these services can and should be improved further.

### Progress

- The implementation of the Strategic Review of Complaints will deliver improvements in complaints handling. Most of this work has been done in 2008, with completion early 2009.
- We monitored compliance with CPD.
- We monitored the performance of providers of the Bar Vocational Course.
- We accredited CPD course providers.

## Key aim 4 – Develop a quality framework for barristers

Assuring quality in the provision of barristers' services, in order to meet the needs of the public interest, is at the heart of what we do. Articulating what makes a good barrister, setting education and training requirements to ensure barristers reach that standard, establishing the necessary rules governing practice that embed and maintain the required standards, and monitoring and enforcing compliance will all be elements of this work.

### Progress

- We carried out a pilot Chambers Monitoring project, visiting 35 sets of Chambers.
- We took over the administration of the Joint Academic Stage Board.
- We ensured that all barristers complied with the CPD requirements relevant to them.

## Key aim 5 – Deliver major reviews of standards and education

Each project has important implications for the public interest and the future of the profession, and will require substantive resource commitment from staff and committee members.

### Progress

- We have embarked on long-term projects to review comprehensively the Code of Conduct, which will address challenging new issues for the Bar, such as the development of alternative business structures.
- We have completed the review of the Bar Vocational Course and are implementing the framework for its successor.

# Core areas of activity

We are responsible for acting in a number of key areas, summarised earlier and now explained further.

We are responsible for:

- Setting the education and training requirements for becoming a barrister;
- Setting continuing training requirements to ensure that barristers' skills are maintained, throughout their careers;
- Setting standards of conduct for barristers;
- Monitoring the service provided by barristers to assure quality; and
- Handling complaints against barristers, and taking disciplinary or other action where appropriate.

## 1. Education and training

A strategic aim of the Board is to ensure that those who qualify as barristers have the right level of skills and knowledge to provide services to the public. Setting the education and training requirements for becoming a barrister is one of the Board's most important functions.

The achievements in this area cross over a number of objectives and key aims so are listed below with aspects explained further in the rest of this section.

### Academic

- Taking over the administration of the Joint Academic Stage Board from the Solicitors Regulation Authority. The Joint Academic Stage Board monitors and accredits qualifying law degrees.

### Vocational

- Completion of the Bar Vocational Course (BVC) review, chaired by Derek Wood QC.
- Starting the accreditation process for the new Bar Professional Training Course (BPTC).
- Work on devising an aptitude entry test for the BPTC.
- Review of aptitude transfer test for transferring lawyers.
- BVC Conference.
- Takeover of the Advocacy Training Council register of advocacy trainers.

### Pupillage

- Commencing the major review of Pupillage.

## **Accreditation of the Bar Professional Training Course (BPTC)**

Procedures for the accreditation of the new BPTC were developed in accordance with the recommendations of the Report of the BVC Working Group, in collaboration with the Inns of Court and the Providers. Expressions of interest in delivering the new course were invited by 31 October 2008 and nine proposals were received. A good geographical spread of providers from around England and Wales expressed interest. The schedule for the management of the process has been devised and detailed guidance and information provided for those who will carry out the accreditation visits.

## **Bar aptitude transfer test (for entry to pupillage)**

The current 'aptitude test' is the transfer test for solicitors and qualified lawyers from other jurisdictions, who wish to qualify to practise at the Bar of England and Wales. It covers the academic stage of training as well as the vocational stage, and is the Bar equivalent of the qualified lawyers transfer test. The process is currently franchised to BPP who organise, set and mark the test (scrutinised by external examiners and an examination board overseen by the Bar Standards Board), as well as running preparation courses for the candidates. If successful, candidates are eligible to be called to the Bar of England and Wales and to undertake pupillage. The test is therefore broadly equivalent to the BVC. It has long been in need of review and a working group of the Education and Training Committee was set up during the summer of 2008.

*"Procedures for the accreditation of the new BPTC were developed alongside the Report of the BVC Working Group, in collaboration with the Inns of Court and the Providers."*

## **Pupillage stage**

The pupillage sub-committee has met six times during 2008 in order to deal with matters relating to pupillage. A great deal of general advice has continued to be provided to Chambers, pupillage training organisations, pupils and supervisors. The Pupillage Funding and Advertising Panel of the Qualifications Committee considered applications for waivers from funding/advertising requirements during this period.

## **Documentation and guidance**

Publications (Guidelines for pupillage training organisations and the Pupillage file) were revised and reissued over the summer period.

## **Major review of pupillage**

The review of pupillage is underway, with terms of reference and membership drawn up and approved in April 2008. A high profile group has been assembled comprising experienced practitioners and members of the judiciary, with representatives of Criminal and Civil practice, members of the Employed Bar and the Young Bar, and also lay people, including barristers' clerks and a member of another profession. Pupils and recent pupils/young tenants are also involved. As with the review of the BVC, the working group is conducting a fundamental review which will focus on the standards required for entry to pupillage and the

selection processes, including funding issues; standards required of pupillage training organisations and supervisors, and the standards that need to be attained by pupils. The current system and methods will be examined in depth and from first principles. The groups met twice before the end of 2008 and are scheduled to report back to the Board by the end of 2009.

### **Qualifications**

The Qualifications Committee is responsible for the determination of applications for waivers from the standard requirements for qualification and entitlement to practise as a barrister.

Most cases relating to the Academic Stage of training are dealt with by the Qualifications Team. All other applications (for example, transferring solicitors, transferring qualified lawyers and various waivers from pupillage, funding, CPD) are considered by the Qualifications Committee, which reported separately to the Board in September 2008.

### **Access to education and training**

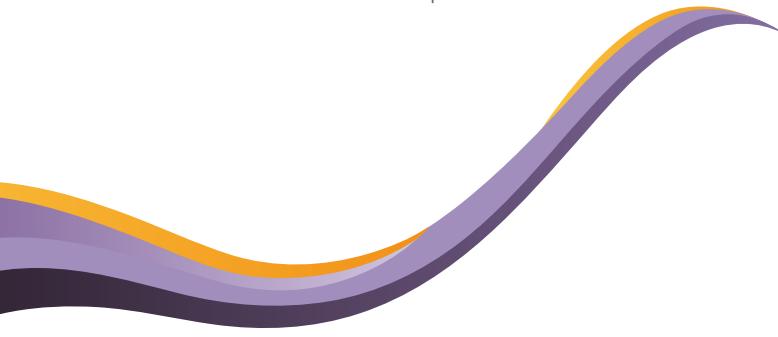
In all of the above, a particular emphasis has been laid not only on the quality and standards of education and training, but also on the crucial importance of access to training. In particular, the findings and recommendations of the report of the Bar Council Working Group on Access to the Bar (chaired by Lord Neuberger of Abbotsbury) have been given carefully consideration by the Committee and various sub-groups.

## **2. Continuing training requirements**

The Bar Standards Board is committed to ensuring that the profession continues to offer legal services, of the very highest quality. All practising barristers are required to complete continuing professional development (CPD). Attending courses alone will not guarantee that appropriate standards are maintained, so the Bar Standards Board considers that mandatory compliance with a planned programme of CPD is essential if barristers are to maintain and improve their skills.

In the first three years of practice newly qualified practitioners are currently required to complete 45 hours of CPD, including at least nine hours of advocacy training and three hours of ethics (the “new practitioners’ programme”). After the first three years of practice, barristers are required to undertake 12 hours of CPD each year (the “established practitioners’ programme”).

Procedures that are operated by the Board to secure an evaluation of competence that underpins the issuing of the practising certificate may need to be re-considered. The planned continuing professional development (CPD)



review has been delayed to allow full consideration of the outcome of the work being undertaken by Jonathan Hirst QC. The delay will also allow the implementation of the changes to the entry course for barristers, and to follow on sequentially after the pupillage review.

### Approval processes

During 2008, 33 new providers and 4,676 courses were accredited for CPD. New forms that were introduced in 2007 proved helpful, and providers are now accustomed to having to complete them, providing more details about courses and expected learning outcomes.

### Fee structures

The new fee structure for CPD accreditation was agreed in January 2008. Collection of fees has been challenging (dealing with in excess of 900 providers and 5,000 courses) with ongoing work required to develop appropriate IT systems to manage the workload effectively and efficiently. Opposition to charges for the recognition of one off accreditations led the Education & Training Committee to recommend the abolition of this charge during this period. This was subsequently considered by the Finance Committee, which in turn has referred the matter to the Board for consideration. Following consideration by the Board, this matter will be considered as part of the CPD review.

### CPD Sub-Committee and the review of CPD

The first meeting of the Sub Committee under its new Chair, Patrick Goodall, took place. The CPD review has been postponed to early 2010, to allow consideration of other stages, the Bar Vocational Course and Pupillage. The Sub Committee is doing some preliminary review work that will feed into the eventual review. Major over-arching issues, such as consideration of the fundamental need for CPD, whether it is fit for purpose, and what professional requirements might be, will be left to the major review group in 2010.

Specific issues that have begun to be addressed by the Sub Committee are as follows:

- Review of forms put into use for approval processes since 2007.
- Review of charging for CPD accreditation.
- Sampling of provision (selected commercial providers).
- Criteria for waivers from CPD requirements and the approval process.
- Consideration of distance learning and other delivery models.
- CPD provision.

A number of sample visits to observe provision are planned, so that a data set can be built up to feed into the eventual review, from late 2009/early 2010. Those conducting the visits will be trained more specifically and criteria for the visits will be redefined to ensure consistency throughout.

### 3. Standards of conduct

The Bar Standards Board is willing and able to implement radical change, and has a successful track record of reform and transformation. It is committed to promoting excellence and quality within the profession, and to ensuring that there are accessible and flexible high quality legal services in a competitive market.

The Board's Standards Committee has, during the course of 2008, undertaken major projects designed to meet this commitment.

This includes:

- The review of the Code of Conduct to ensure that it is fit for purpose, not restrictive or anti-competitive, and is central to providing clear rules of professional standards to which the Bar must adhere.
- Consideration of the impact of the Legal Services Act on the legal market, and the business structures through which barristers can offer legal services.
- Strengthening of the requirements in respect of Chambers' complaints handling

#### The review of the Code

The review has been split into two discrete areas:

- The development of revised Conduct Rules to replace the existing rules relating to professional standards and conduct of barristers;
- A review of the rules relating to practice and business requirements.

Work on revised conduct rules has been the focus, and began in early 2008 through a Group chaired by Sir Donald Irvine, former president of the General Medical Council. The Group proposed a core duty approach to the new rules. High-level core duties will be developed, to cover each of the primary aspects of professional conduct, eg independence, confidentiality and duty to the court. These duties will be complemented by secondary rules and guidance, which amplify and illustrate the scope and purpose of each duty.

This approach offers a number of benefits:

- It creates an accessible code to consumers and barristers alike;
- It provides a greater degree of clarity on the standards that barristers are expected to meet;
- It avoids an unduly legalistic approach to the interpretation of the code.

*"High-level core duties will be developed, to cover each of the primary aspects of professional conduct, eg independence, confidentiality and duty to the court."*



A consultation paper on revised Conduct Rules will be issued in early 2009. The review of the Practising Rules will commence in 2009, as will the review of the Equality and Diversity Code for the Bar.

### The impact of the Legal Services Act

The Legal Services Act 2007 seeks to reform the way that legal services are made available and regulated in England and Wales. It creates new regulatory structures, which will permit different categories of lawyer and eventually, other professionals to form businesses together. It allows non-lawyers to be involved in managing or owning businesses providing legal services.

The Bar Standards Board has established a working group to look into the implementation of the act.

The working group consulted twice in 2008. Its first consultation, issued in February, sought to present the Act and the relevant considerations for the Bar and to raise additional potential issues. It particularly stressed the potential effects of the Act on the cab-rank rule. The cab-rank rule requires a barrister to accept work which they have time to undertake, which is within their expertise and for which an appropriate fee is offered, irrespective of the client, the nature and strength of the case, or of the barrister's view of the client, or the client's behaviour.

In order to familiarise the Bar with the issues, and provide an opportunity for discussion, the group held five seminars in London, Cardiff and Leeds to meet with barristers. These were held in April and May 2008, and were very well attended.

There were 51 responses to the consultation. These varied considerably, ranging from enthusiasm for the new business structures to hostility towards the Act. The working group collated the responses and presented them to the Board.

In late 2008 the group issued its second consultation, which focused on whether barristers should be permitted to work in partnership with each other, and also whether barristers should be able to become managers of legal disciplinary practices regulated by the SRA. The 34 responses received will be analysed during the early part of 2009 and policy proposals considered by the Board in the autumn.

In the meantime, the Board will continue to liaise with the Legal Services Board, the Solicitors Regulation Authority, and other regulators to attempt to co-ordinate implementation.

## Chambers Complaints

Client expectation is greater than ever. Disgruntled or dissatisfied clients are more willing to complain, so Chambers must have effective methods to address any complaints that they receive. Research undertaken in 2005 by the Bar Council suggested that whilst Chambers were getting better at dealing with complaints there was inconsistency of approach and a general unwillingness to receive complaints directly from members of the public.

The Board, following wide consultation implemented the following measures aimed at strengthening the requirements on Chambers' complaints handling, improving consistency and assisting Chambers to develop effective means of identifying trends and training needs from complaints received. They were implemented in May 2008.

The measures are:

1. The introduction of a mandatory protocol, which sets out a number of specific requirements, that all Chambers must include in their complaints handling policy;
2. The introduction of the protocol as an annex to the Code;
3. Amendment to the existing guidance and model procedures on complaints handling to provide more precise information on how a complaint should be handled by Chambers and when details of the Chambers' complaints process should be provided to clients;
4. The introduction of a training course on complaints handling;
5. The effectiveness of Chambers' complaints handling should be monitored as part of the compliance-monitoring scheme being undertaken by the Quality Assurance Committee.

The Board will continue to monitor Chambers' complaints handling as part of the Chambers Monitoring scheme.

## Other work

In addition the Standards Committee has undertaken a number of important projects in 2008. Of particular note are the review of the public access rules and the revision of the rules in respect of the acceptance and return of instructions. Both of the reviews are designed to make legal services as accessible as possible, and demonstrate the Board's commitment to meeting the objectives of the Legal Services Act in opening up the legal market.

## 4. Quality of service

The Board's Quality Assurance Committee was established to lead on quality assurance initiatives for the Bar. A number of initiatives continued to develop in 2008.

### Chambers monitoring

The Board is committed to developing a quality assurance scheme to monitor compliance by Chambers with the Code of Conduct, professional standards and other best practice principles. Such a scheme will enable the Board, for the first time, to identify Chambers that comply with the Code. The emphasis of the scheme is to help Chambers improve their administration, and make the delivery of service to the client more efficient. However, as a last resort and where there is serious or persistent non-compliance, the Board has the full range of disciplinary sanctions available.

The Board piloted an approach to Chambers monitoring in the summer of 2008. The pilot involved a representative sample of 35 sets of Chambers. Each Chambers was asked to provide information on how they comply with the Code requirements in the following areas:

- Chambers complaints
- Pupillage
- Equality and diversity

Based on the information provided, 15 Chambers were selected for a follow up visit. Certain Chambers were selected where there was evidence of non-compliance; others were selected randomly in order to verify the information that they provided.

The main points arising from the pilot were:

- The development of a self-regulation system which is robust and credible is critical to the profession, to protect and maintain its reputation and also the reputation of the Board as a regulator;
- Of those Chambers in the pilot scheme there was only low-level evidence of non-compliance and a significant amount of good practice in Chambers was identified. This is encouraging and supports a light touch approach but is no reason to be complacent;
- The use of a questionnaire proved to be a comprehensive method of gathering information from Chambers and should be adapted for future monitoring schemes. However, more work needs to be done to gather information on how Chambers apply policies and procedures;

- Any scheme needs to carry the confidence of the profession. Encouragingly, the large majority of Chambers in the pilot scheme were receptive to the idea of some monitoring of Chambers by the Board, but engagement with the whole profession on the purpose and motives of the scheme is crucial to ensure wholehearted acceptance;
- Chambers must be clear about what is expected of their policies and procedures in order to comply with the Code requirements. This was not always the case for those Chambers in the pilot scheme, particularly in respect of the requirements relating to equality and diversity. Model procedures and policies should therefore be developed to assist Chambers in this regard together with greater support for Chambers' Equal Opportunities Officers;
- Any efficient monitoring system must be supported by an increasingly sophisticated and robust IT system, which draws information from existing databases into a central point, so that risk assessment and analysis can be carried out;
- The Quality Assurance Committee should be commissioned to review the pilot scheme and to put forward proposals, in the light of the lessons learned, for the effective implementation and operation of a monitoring scheme.

The lessons learned from the Chambers Monitoring pilot will be invaluable in developing future monitoring schemes. The Quality Assurance Committee, will report to the Board on proposals for the next stage of development of the scheme in 2009.

### **Developing a strategy on quality**

There is a wide range of quality assurance measures in place for barristers from internal Bar Standards Board systems such as CPD to external arrangements like the Crown Prosecution Service prosecutor grading scheme. Allied to the existing measures are new systems, currently being developed by the Legal Services Commission and the Ministry of Justice. There is a danger therefore of duplication and over-regulation that the Board must guard against.

Work commenced in 2008 by the Quality Assurance Committee on the development of a coherent strategy on quality at the Bar is an ongoing activity. This various strands of quality assurance work will need to be consolidated and developed during 2009.

This will greatly enhance the Board's position in the debate on maintaining standards and competence within the legal profession.



*"The lessons learned from the Chambers Monitoring pilot will be invaluable in developing future monitoring schemes."*

## 5. Handling complaints and discipline

The Bar Standards Board's role in maintaining standards within the profession by addressing breaches of the Code and complaints raised by clients, other professionals and members of the public is essential to effective regulation of the Bar. While complaints against the profession are relatively low (approx 850 per year in comparison to 15,000 practising barristers) they provide a means by which the Bar Standards Board can ensure the public are protected and are a vital barometer for assessing performance at the Bar.

In general, the complaints system has proved to be effective and the external oversight by the Legal Services Ombudsman shows a high approval rate of decisions made within the system (over 80% in 2008). However, the Bar Standards Board is not complacent and is committed to constantly improving the system to ensure that it meets with modern complaints handling and regulatory practice. As previously outlined in this report, following the Strategic Review of the Complaints and Disciplinary procedures in 2007, 2008 was a year in which substantial work was undertaken to implement the 65 recommendations made by Robert Behrens in his Review Report.

Alongside the improvements, which are covered in more detail below, the Complaints and Investigations Teams continued to deal with a wide range of issues raised both internally and externally by clients and members of the public. In 2009 a total of 833 complaints were received, 525 of these were from external sources and 308 (37%) were internal complaints raised by the Bar Standards Board about issues such as failure to complete Continuing Professional Development (CPD) hours and failure to pay practising certificate fees.

The number of external complaints received in 2008 represented a decrease of nearly 12% compared to 2007. The Bar Standards Board sees this reduction as an encouraging sign that its efforts in 2008 to improve complaints handling at the local level within Chambers have proved effective. In 2008, amendments to the Code of Conduct were introduced which placed greater obligations on barristers and Chambers to have effective complaints procedure in place. The results of the pilot Chambers Monitoring scheme, combined with the complaints statistics, would indicate that these moves have met with a level of success. This is very much to be welcomed, particularly in light of the increased pressure Chambers will be under to handle complaints effectively when the provisions of the Legal Services Act 2008 are fully implemented and when the Office of Legal Complaints starts operating in 2010 (see below for further details).

The upward trend in internal complaints relating to failures to meet practising requirements is a cause of concern. In the main these complaints relate to non-

completion of CPD requirements. The requirements are not onerous, amounting to only 12 hours per year, and provision is made for those who are in difficulty to apply for an extension to the completion deadline and/or apply for waiver of all or some of the hours. Further, barristers now have the option to pay a fixed penalty administration fine if they have not completed their hours in time. It is disappointing that the Bar Standards Board still has to raise so many formal complaints regarding non-completion of CPD.

The types of complaints raised against barristers from external sources cover a wide range of issues, but the largest single category of complaint are those about incompetence/negligence (representing 18% of the total complaints raised). The other main categories were misleading the court (9%), rudeness or misbehaviour either inside or outside court (8%) and failure to follow instructions (6%).

In line with the relatively low number of complaints raised against the Bar, the number of complaints referred to disciplinary hearings is also small. The high levels of formal sanctions imposed at disciplinary hearings (over 80%) indicate that when the Bar Standards Board decides that disciplinary action should be taken, that action is considered to be warranted in the majority of cases by the independent disciplinary panels tasked with deciding cases.

### **Strategic review implementation**

As outlined above, the Bar Standards Board expended considerable time during 2008 on implementing changes to the complaints and disciplinary system as recommended in Robert Behrens' Review. A working group was set up under the Chairmanship of Sue Carr QC to take the recommendations forward and following public consultation, the recommendations received widespread support from the public and the Bar. A number of the recommendations were implemented during 2008 including:

- agreement on the formal aims and objectives for the system;
- development of an outreach strategy;
- development of a protocol with the Bar Council regarding feedback on complaints;
- agreement on the appointment and terms and conditions for a independent observer;
- development of an upgraded database;
- completion of a pilot user satisfaction survey; and
- changes to rebalance the composition of Complaints Committee by increasing lay membership and removing the requirement that the Chair must be a barrister.

All other recommendations are at a late stage of development, and by April 2009 the Bar Standards Board will have:

- appointed the first Bar Standards Board Independent Observer;
- produced new information leaflets for complainants and the Bar, available in different formats;
- introduced a dedicated information line for dealing with queries about how to make complaints;
- introduced user satisfaction surveys as an integral part of the complaints system;
- introduced a formal mechanism for agreeing complaints with complainants prior to commencement of investigations;
- introduced a new disciplinary mechanism known as “determination by consent”, which will allow the Complaints Committee to make disciplinary findings with the barrister’s consent;
- streamlined the disciplinary processes by abolishing some forms of disciplinary hearings and replacing them with one disciplinary tribunal jurisdiction;
- provided comprehensive guidance and information packs to all decision makers within the system;
- assisted the Council of the Inns of Court to introduce comprehensive sentencing guidance; and
- introduced a sentencing database to record all sentences imposed by disciplinary panels.

There is still work to do on improving the system and ensuring that all recommendations are implemented effectively. The Bar Standards Board views the process as one of continuous improvement in the light of the changing landscape, and we remain focussed on further change in view of the pending creation of the Office of Legal Complaints. The achievements flowing from the strategic review are a milestone in our short history, and demonstrate our commitment to regulating in the public interest.

### Complaints and the Legal Services Act 2007

*“The achievements flowing from the strategic review are a milestone in our short history, and demonstrate our commitment to regulating in the public interest.”*

Looking forward, 2009 will be another year of substantial change in relation to complaints; not only will the improvements listed above be introduced, but detailed discussions with the Office of Legal Complaints will take place in preparation for the introduction of the new complaints handling regime, as set out in the Legal Service Act 2007. The Act removes responsibility for dealing with consumer complaints from the front line legal professional regulators, and transfers it to an independent Ombudsman’s Office, supervised by the Office of Legal Complaints. Therefore, from mid to late 2010 the new office will deal with all complaints from clients that may require redress arising from the

poor performance of barristers. While the Bar Standards Board will retain full responsibility for complaints requiring disciplinary action, the new jurisdiction still represents a significant and fundamental change for the Bar. For the first time, an entirely independent body will have the statutory power to award compensation and adjustment of fees up to a maximum of £30,000. Failure to comply with any determinations made by the new office could result in High Court action.

The Bar Council and the Bar Standards Board were cautious about the introduction of such wide-ranging independent powers. However, the Bar Standards Board is fully committed to working with the Office of Legal Complaints to ensure that the new complaints arrangements operate effectively in the public interest and assist us in ensuring that standards at the Bar are maintained.

## 6. Equality & diversity

The Bar Standards Board recognises the importance of its role in promoting access to a diverse legal profession. Such diversity is critical if the Bar is to draw on the broadest range of talent and command the respect and trust of consumers and broader society. The work undertaken in this area has been widely regarded as one of the great strengths of the Board's early profile.

### Equality strategy and action plan

The current equality and diversity strategy covers 2007-08. The recently drafted 2009-10 strategy follows on and develops the earlier document, and was approved by the Board in November 2008.

The 2009 strategy includes revised equality objectives for the Bar Standards Board directly linked to the strategic plan. The rationale is that equality objectives should be consistent across all aspects of what we do. The layout of the strategy remains the same as it was for 2007/08, with added sections detailing monitoring and review proposals. The background section has been updated with new statistics, taken from the 2007 Legal Services Council/Bar Council survey of the profession.

It is anticipated that the action plan will evolve and grow, as a result of completed equality impact assessments and contributions from stakeholders. A revised version of the plan will be drafted in late 2009, in readiness for Board approval and implementation.

## Equality training

One of the primary objectives of the equality strategy is to ensure that the Board conducts its regulatory activities fairly, and in accordance with its duty to promote equality and eliminate discrimination. In order to help meet this objective, the Board agreed that it should provide appropriate training for all of its committee members and staff to ensure they are aware of and trained in equality issues.

*"The work undertaken in this area has been widely regarded as one of the great strengths of the Board's early profile."*

Professor Aileen McColgan, a barrister at Matrix Chambers specialising in discrimination and equality law and Professor of Human Rights Law at King's College London, was commissioned to develop a training course specifically for the Board, its committees and staff. The session covered an introduction to the relevant law and its relevance to the functions of the Bar Standards Board, the positive equality duties, the meaning of "discrimination" and "harassment" and reasonable adjustments.

Intended outcomes of the session were:

- Raised awareness of the main equalities issues both at the Bar, and within the communities served by barristers;
- Increased understanding of equalities legislation on race, gender, disability, sexual orientation, age and religion/belief and how these affect the functions of the Board;
- Increased understanding of the process by which fair and objective decision making is achieved;
- Increased understanding of the duty to make reasonable adjustments;
- Increased understanding of the duty to undertake equality impact assessments; and
- Increased understanding of the reasons for diversity monitoring.

The Board ran a number of training sessions during October and November 2008. Sessions were three hours in length, and included case study material of direct relevance to the work of the Bar Standards Board. 120 Board members, committee members and key staff were trained during 2008, and training will continue into 2009.

The Bar Standards Board is committed to an ongoing equality-training programme for its staff and committees, and will be developing further courses in 2009.

## Chambers monitoring

Equality and diversity was selected as one of the three areas which the pilot scheme would cover, and a questionnaire was drawn up to test Chambers compliance in this area, as well as the areas of pupillage and complaints handling.

The Bar Standards Board Equality Advisor was actively involved in the development of the monitoring scheme and attended pilot visits. The review of the results identified that equality and diversity was the area of greatest non-compliance.

In particular it was found that the role of the Equal Opportunities Officer in Chambers had not been sufficiently well defined or developed in many cases. There was a low take up of equality and diversity training by members and staff, some equality policies such as parental leave were inadequate and there was inconsistency in the monitoring of diversity data across Chambers.

The Bar Standards Board is working with the Bar Council in 2009 to identify how best to address these issues and ensure that Chambers are supported in their efforts to manage diversity effectively.

### **Impact assessment**

The Bar Standards Board has a statutory duty to carry out equality impact assessments for race, gender and disability in relation to its public functions. Since November 2008 a uniform process has been agreed for this work.

In response to this high priority need for action being identified, the equality and diversity advisors to the Bar Council and Bar Standards Board drafted a suggested process plan for impact assessment, supported by an “equality impact assessment guidance pack” devised by the equality advisor to the Board. The Board approved the process plan in November 2008, to be followed by the implementation of “one-to-one” briefing sessions, delivered by the equality advisor to policy leads, taking them through the impact assessment process. Policy leads have begun work on equality impact assessments on their policy areas early in 2009, and the first impact assessment reports should therefore be ready for publication by the end of 2009.

## 7. Other areas of work

### International

The Bar Standards Board's interests on the international scene have also continued to grow and develop, alongside increasing demands for information and data from other international regulators. The Board is also seeking, at an international level, to improve the exchange of information among regulators. The Board has responded to the questions raised in the consultation paper issued by the department for Business, Enterprise and Regulatory Reform ("BERR") on their implementation of the EU Services Directive (2006/123/EU) in the UK. The Bar Standards Board is enthusiastically in favour of increased competition, and cross-border practice.

### The Office of the Immigration Services Commissioner (OISC)

The OISC is responsible for regulating immigration advisers by ensuring they are fit and competent, and act in the best interests of their clients. In the year ending 31 March 2009 the OISC worked on and developed casework in 14 cases, which fell within the regulatory ambit of the Bar Standards Board and were referred to the Bar Standards Board.

### Communications and transparency

The Board exists to serve the public interest, and operates with greater transparency making a major contribution to maintaining and enhancing public and professional confidence. Changes to the website, the organisation of 'roadshows' to support key consultations such as that on legal disciplinary practices and the outreach work through Chambers' practice monitoring have all sent important messages about transparency. In the future the search facility, which allows on-line checks of barristers' records (the online register), will also make a contribution to the perceptions about the transparency of the profession and of the regulator. Website development has also enabled easier access to our information on equality and diversity.

### Business processes

Major improvements were made during 2008 to our business processes, including risk analysis and a more co-ordinated approach to strategic business planning and budget setting. However, there is still room for improvement, and the need and capacity to learn from experience. During 2009 major work programmes will continue to refine and develop our risk management work, our work on business continuity, our work on performance management and governance. This will also be supported by improved IT systems.

## 8. Financial Commentary

During 2009 the BSB delivered on its challenging regulatory agenda.

Income of over £1,000,000 was generated, which went towards cost recovery of processing applications, accrediting CPD and the quality assurance in education. The management and administration of the Joint Academic Stage Board (JASB) transferred from the Solicitors Regulation Authority to the Bar Standards Board on 1 September 2008. The JASB is a joint committee of the Board and Solicitors Regulation Authority and is responsible for the validation and regulation of Qualifying Law Degrees and conversion courses (CPE/GDL).

There were underspends in a number of areas of the BSB's business because planned workstreams were either delayed or advanced at a slower pace than originally anticipated. This was a result of shifting business priorities.

During 2008 there were also substantial recruitment costs. Due diligence was applied across all budget areas and the year-end resulted in a position of surplus. It was also possible during 2008 to anticipate some of the potential areas requiring review and resourcing in 2009.

The Board's priorities, in terms of maintaining excellence in standards, ensuring continuing performance in complaints, enhancing quality assurance in all aspects of education and training were delivered. Investment in areas such as communications, PR, research and intelligence gathering, presented ongoing challenges.

Responding to the agenda of the Legal Services Board, and also the change management plan which will need to be developed in the transition to the Office of Legal Complaints, is work that spans 2008, 2009 and beyond.

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## APPENDIX 1

### Bar Standards Board members

#### Our Board

Our Board comprises of 15 people. Eight of our members are barristers. Seven of our members are lay people, including our Chair. Our rules require that none are members of the Bar Council or any of its representative committees. All members are appointed to work in the public interest.

#### Chair

Ruth Evans

#### Vice-Chair

George Leggatt QC

#### Barrister Members

Sue Carr QC  
Charles Hollander QC  
Anthony Inglese CB  
Simon Monty QC  
Matthew Nicklin  
Michael Poole QC  
Emily Windsor

#### Lay Members

Sarah Brown  
Dr John Carrier  
Paula Diggle  
Christopher Graham  
*(resigned 31 March 2009)*  
Dr Vicki Harris  
Professor Peter Hutton

### Bar Standards Board Committees

#### Regulatory

Complaints  
Qualifications  
Quality Assurance  
Standards  
Education & Training

#### Other

Performance and Best Value  
Equality and Diversity

## APPENDIX 2

### Bar Standards Board Committees

The Board runs its work through five regulatory committees and two other committees each of which reports to the Board. Terms of reference can be found on our website, [www.barstandardsboard.org.uk](http://www.barstandardsboard.org.uk).

#### 1. Complaints

Responsible for investigating complaints, and taking action against barristers who have breached the Code of Conduct, or provided poor service.

##### Chair

Sue Carr QC

##### Vice-Chairs

Timothy Brennan QC  
Simon Lofthouse QC

##### Lay Vice-Chairs

John Ellison  
Barbara Stephens OBE

##### Secretary

Adrian Turner

#### 2. Qualifications

Responsible for looking at individual applications from people wishing to become barristers, but who may be exempted from the normal training requirements.

##### Chair

Simon Monty QC

##### Vice-Chair

Colin Reese QC

##### Barrister Members

Jeremy Benson QC  
Stephen Bousher  
Stuart Brittenden  
Nigel Cooper  
Helen Fletcher Rogers  
David Holborn  
Leslie Keegan  
Gelaga King

Gay Martin  
Rory Mullan  
Matthew Nicklin  
David Owusu-Yianoma  
Maya Sikand  
William Stevenson QC  
Rodney Stewart-Smith  
Patrick Walker

##### Lay Vice-Chairs

Ian Edward Hughes  
Linda Stone

##### Lay members

Libhin Bromley  
Sandra Elliot  
Professor John Last  
Dr Pamela Ormerod

##### Secretary

Joanne Dixon

### **3. Quality Assurance**

Responsible for monitoring standards and encouraging professional excellence at the Bar.

#### **Chair**

Michael Pooles QC

#### **Barrister Vice-Chair**

Anthony Inglese CB

#### **Barrister Members**

Damian Brown

Oliver Campbell

Meyric Lewis

Kate Mather

Graham Reid

Samuel Stein QC

Michelle Stevens-Hoare

#### **Co-opted Member**

Edith Robertson

#### **Lay Vice-Chairs**

Elizabeth Hall

Dr Vicki Harris

#### **Lay Members**

Dr William Ferguson

Professor Peter Hutton

Grahame Owen

Michael Reddy

Mandy De Waal

#### **Secretary**

Oliver Hanmer

### **4. Standards**

Responsible for the Code of Conduct which all barristers must comply with and issuing guidance on good practice.

#### **Chair**

Charles Hollander QC

#### **Barrister Vice-Chair**

Tim Fancourt QC

#### **Barrister Members**

Christopher Gibson QC

Mark Lucraft QC

John McGuinness QC

Clive Heaton QC

Dexter Dias QC

Daniel Beard

Daniel Crowley

Jasbir Dhillon

John Kimbell

Caroline Wright

#### **Lay Vice-Chairs**

Sarah Brown

Arthur Selman

#### **Lay Members**

Paula Diggle

Peter Douglas

Roger Creedon

Professor Brian Gomes da Costa

#### **Secretary**

Oliver Hanmer



## 5. Education and Training

Responsible for setting the standards of education and training that people must pass, before being able to practise as barristers. Together with the further training requirements that barristers must comply with, throughout their careers.

### **Chair**

Dr John Carrier

### **Barrister Vice-Chairs**

Nigel Cooper

Emily Windsor

### **Barrister Members**

Alan Bates

Patrick Goodall

Mark James

Nerys Jefford

Leslie Keegan

### **Legal Academic Members**

Frances Burton

Lesley-Ann Cull

### **Lay Vice-Chair**

Professor Andrew Boon

### **Lay Members**

Annie Hitchman

Professor Gwyneth Pitt

Professor Celia Wells

### **Secretary**

Dr Valerie Shrimplin

## 6. Performance and Best Value

Responsible for reviewing the corporate governance structures of the Board, and its committees to ensure that they are working economically and effectively.

### **Chair**

Dr Vicki Harris

### **Vice Chair**

Michael Poole QC

### **Lay Members**

Sir Graham Meldrum

David Prince

Alan Wright

Christopher Graham

### **Barrister Member**

David Southern

### **Secretary**

Amanda Thompson

## 7. Equality and Diversity

### Members

Emily Windsor	Chair
Mandy de Waal	Quality Assurance Committee Representative
Dexter Dias	Standards Committee Representative
Christopher Graham	BSB Lay Member
Dr Vicki Harris	BSB Lay Member
Diya Sen Gupta	Complaints Committee Representative
Vacant	Qualifications Committee Representative
Vacant	Education and Training Representative

### Observers

Grahame Aldous	Vice Chairman of Bar Council E & D Committee
Kim Hollis QC	Vice Chairman of Bar Council E & D Committee
Declan O'Dempsey	Vice Chairman of Bar Council E & D Committee
Stephen Jourdan	Barrister
Dr Dilnaaz Kazi	Bar Council E & D Committee Member
Georgina Kent	Bar Council E & D Committee Member

## APPENDIX 3

### Major review groups

#### Pupillage review working group membership

Chair	Date of appointment	
Derek Wood QC	August 2008	
Members		
Graham Aldous QC		Equality and Diversity Committee
Alan Bates		Education Committee
Colin Cook		Clerk Representative
Georgina Crawford		Recently appointed tenant
Sue Edwards		Government Legal Service
Dr Vicki Harris		Bar Standards Board
Tristan Jones		Recently appointed tenant
Paul Kirtley		BVC Working Group, North Eastern Circuit
Simon Monty QC		Bar Standards Board, Chair of Qualifications Committee
Richard Muschamp		Partner, Deloitte and Touche
Sally O'Neill QC		Bar Council, former Chair of Criminal Bar Association
Declan Redmond		Clerk Representative
Paul Rooney		Recently appointed tenant
Ingrid Simler QC		Barrister
Samuel Stein QC		Pupillage Sub Committee

#### Committee Secretary

Dr Valerie Shrimplin/Andrea Clerk

## APPENDIX 4

### **Bar Standards Board Consumer Panel membership**

The panel is an advisory panel of the Board, and provides advice to the Bar Standards Board, its Committees and other relevant bodies, from the perspective of consumers of barristers' services.

Its tasks are to:

- respond to consultations on changes to the rules and procedures of the Board;
- propose areas of work that the Board should consider;
- consider research initiated by the Board and contribute to its development and comment upon the results;
- publish advice given to the Board; and
- publish an annual report to the Board.

#### **Membership**

The panel is chaired by Dianne Hayter, who is on the Board of the National Consumer Council and is a former Vice Chair of the FSA's Consumer Panel.

The BSB Consumer Panel's membership comprises users of barristers' services, and those who have a wider perspective on the legal system from the viewpoint of users.

#### **The Panel's members are:**

Dianne Hayter (Chair)

Caron Bradshaw – Institute of Chartered Accountants in England and Wales

Duncan Campbell – Legal Advisor, Confederation of British Industry

Mr Adam Creme – UNISON

Fiona Freedland – Action for Victims of Medical Accidents

Andrew Greensmith – Chairman, Resolution

Sue Leggate – Which?

Aleathia Mann – National Federation of Womens' Institutes

James Molloy – The Automobile Association

Victoria Mortimer-Harvey – Association of Personal Injury Lawyers

John Rees – Director of Central Services, Local Government Association

James Sandbach – Social Policy Officer, Citizens Advice

Chris Stanley – Head of Policy Division, NACRO

Rodney Warren – Director, Criminal Litigation Solicitors Association

The Consumer Panel issued its annual report in March 2009. The report is available on the Bar Standards Board website:

[www.barstandardsboard.org.uk/about/consumerpanel/](http://www.barstandardsboard.org.uk/about/consumerpanel/)

## APPENDIX 5

### Annual statistics for the Bar 2008

*As at December 2008*

Number of Barristers	Total	Men	Women
<b>Self Employed Bar</b>			
England and Wales	12136 (12058)	8364 (8327)	3772 (3731)
London	7681 (7591)	5348 (5304)	2333 (2287)
Provinces	4433 (4447)	3003 (3011)	1430 (1436)
Overseas	22 (20)	13 (12)	9 (8)
<b>Self Employed Queen's Counsel</b>			
England and Wales	1273 (1223)	1146 (1107)	127 (116)
London	1064 (1020)	954 (921)	110 (99)
Provinces	209 (203)	192 (186)	17 (17)
<b>Employed Bar</b> (including CPS, GLS etc)			
	3046 (2972)	1635 (1597)	1411 (1375)
<b>Non-Practising</b>			
	3721 (3994)	1911 (2105)	1810 (1889)
<b>Overseas and Retired</b>			
	1575 (1776)	1026 (1131)	549 (645)

Number of Chambers	Total	Barristers' Chambers Practitioners	Sole Practitioners
<b>England and Wales</b>			
	690 (643)	339 (334)	351 (309)
<b>London</b>			
	342 (330)	203 (195)	139 (135)
<b>Provinces</b>			
	348 (313)	136 (139)	212 (174)

Called to the Bar 2007/08	Men	Women	UK	Overseas
Total	832 (906)	910 (870)	1196 (1256)	546 (520)

(Figures in brackets relate to 2007)

## APPENDIX 6

### Bar Standards Board costs – 2008

*As at December 2008*

	Discip.	Education Standards	Qualif.	Stds. & Quality	Executive & Board	2008 Total	2007 Total
<b>Staff Numbers</b>	19	9	5	7	13	<b>53</b>	49
	£'000	£'000	£'000	£'000	£'000	£'000	£'000
<b>Direct costs</b>							
Staff costs	905.3	328.4	169.3	229.6	618.4	<b>2,251.0</b>	1,994.4
Activity costs	196.8	152.5	23.2	90.9	252.9	<b>716.3</b>	509.2
<b>Allocated costs</b>							
Executive and Board	471.0	141.3	94.2	164.8	-871.3		
Office accommodation	158.3	48.2	27.5	34.5		<b>268.5</b>	285.8
<b>Central services</b>							
Finance							
Print and distribution							
Office services							
IT	694.8	208.4	139.0	243.2		<b>1,285.4</b>	1,139.0
Equal Opportunities							
Member records							
Human Resources							
<b>Total costs</b>	<b>2,426.2</b>	<b>878.8</b>	<b>453.2</b>	<b>763.0</b>		<b>4,521.2</b>	<b>3,928.4</b>

Notes:

BSB management costs have been allocated on a headcount basis.

Premises costs have been apportioned on the basis of floor area occupied.

Central Services costs have been allocated on an estimated usage/headcount basis.

## APPENDIX 7

### Number of applications considered by the Qualifications Committee 2008

	Applications considered
<b>Academic stage applications</b>	
Applications for partial exemption from the academic stage	18
Applications for exercise of discretion to waive requirement to obtain lower second class honours	41
Application for Certificate of Academic Standing on the basis of overseas or non-standard degrees	158
Applications for reactivation of stale qualifications	23
Application for approval of credit transfer	36
Application for approval to exceed permitted study-time	1
Application for permission to commence vocational stage before completing academic stage	22
<b>Total academic stage applications</b>	<b>299</b>
<b>Transferring solicitors panel ("Panel A")</b>	
Solicitors applying for call to the Bar	60
Mature students applying for admission to an Inn	15
<b>Total Panel A</b>	<b>75</b>
<b>Transferring qualified lawyers panel ("Panel B")</b>	
Common law practitioners applying for call to the Bar	23
European lawyers applying for call to the Bar	6
European lawyers applying for registration under the establishment directive	2
Legal academics applying for dispensation from the standard requirements for call to the Bar	2
Applications for temporary membership of the Bar	1
<b>Total Panel B</b>	<b>34</b>

	Applications considered
<b>Pupillage panel (“Panel C”)</b>	
Applications for approval to undertake external training	19
Applications for reduction in pupillage	88
Applications from pupils for dispensation from the pupillage regulations	28
Applications from pupil-supervisors for dispensation from the pupillage regulations	1
Applications for retrospective registration of pupillage	12
<b>Total Panel C</b>	<b>148</b>
<b>CPD Panel (“Panel D”)</b>	
Applications for extension of time for completion of the new practitioners programme	104
Applications for waiver of the new practitioners programme requirements	26
Applications for extension of time for completion of the established practitioners programme	549
Applications for waiver of the established practitioners programme requirements	133
<b>Total Panel D</b>	<b>812</b>
<b>Practising rules panel (“Panel E”)</b>	
Applications for rights of audience/waivers of the practising rules	50
Applications for designation as a “qualified person”	4
Applications for waiver of the public access rules	4
Applications for exemption from the vocational conversion course	1
Applications for authorisation as a pupillage training organisation	16
Applications for licensed access	42
<b>Total Panel E</b>	<b>117</b>

	<b>Applications considered</b>
Pupillage funding & advertising panel ("Panel F")	
Applications for waivers of the pupillage funding & advertising requirements	32
Total Panel F	32
Full committee	
Waiver applications	3
Review of decisions on academic stage applications	25
Review of decisions on applications to Qualifications Committee	36
Total Full Committee	64
<b>Total</b>	<b>1,581</b>

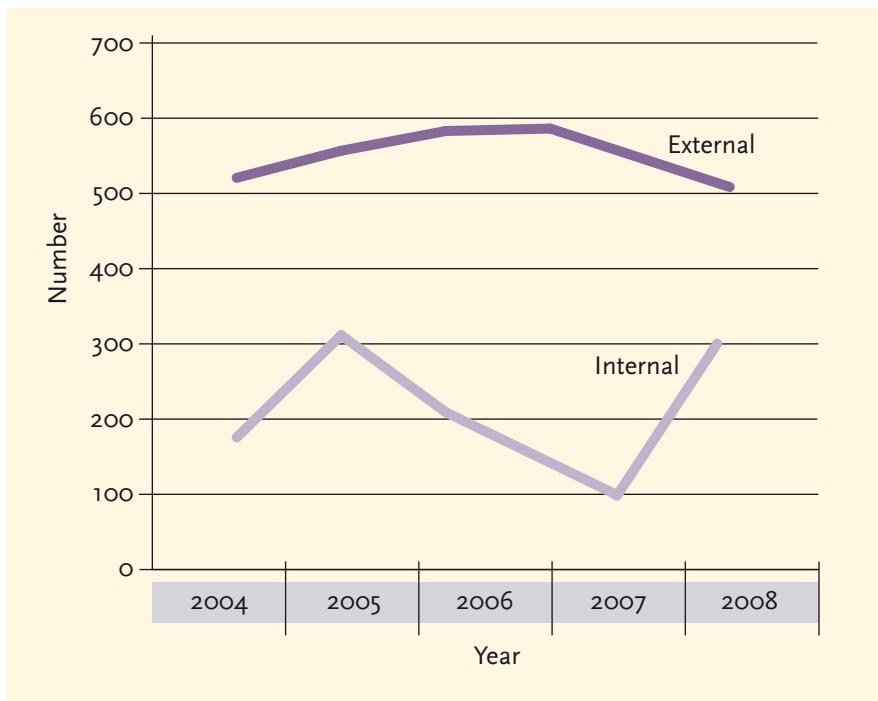
## APPENDIX 8

### Complaints handling statistics for the Bar Standards Board

**Complaints opened between 1 January 2004 and 31 December 2008 – all complaints**

Complaint Category	2004	2005	2006	% change from 2005	2007	% change from 2006	2008	% change from 2007
Internal	151	318	192	-39.6%	111	-42.2%	307	+176.6%
External	516	559	592	+5.9%	599	+1.2%	528	-11.9%
<b>Total</b>	<b>667</b>	<b>877</b>	<b>784</b>	<b>-10.6%</b>	<b>710</b>	<b>-9.4%</b>	<b>835</b>	<b>+17.6%</b>

### Complaints opened: 2004 – 2008



## Analysis of complaints opened by complainant category

Complainant Category	2006	2007	2008	
Bar Standards Board	192	24%	111	16%
Civil litigant	164	21%	177	25%
Criminal defendant/non-defendant/prisoner	134	17%	140	20%
Family law litigant	104	13%	87	12%
Other	35	4%	111	16%
Other Member(s) of the lay public	49	6%	17	2%
Solicitor(s) on own behalf	16	2%	14	2%
Barrister	14	2%	20	3%
Invalid complaint	36	5%	1	0%
Solicitor(s) on lay client's behalf	14	2%	11	2%
Public access complaint	15	2%	7	1%
Immigration Services Commissioner	5	1%	4	1%
Judge (or official on their behalf)	5	1%	7	1%
Immigration litigant	n/a	n/a	n/a	n/a
Asylum and Immigration Tribunal	1	0%	1	0%
Magistrates/Clerk to the Justices	0	0%	1	0%
Ministry of Justice	0	0%	1	0%
Chambers staff	0	0%	0	0%
Legal Services Commission	0	0%	0	0%
Licensed access complaint	0	0%	0	0%
<b>Total</b>	<b>784</b>	<b>100%</b>	<b>710</b>	<b>100%</b>
			<b>835</b>	<b>100%</b>

## Analysis of complaints opened by complainant category

Complaint Category	2004	2005	2006	% change from 2005	2007	% change from 2006	2008	% change from 2007
Internal	139	224	275	22.8%	147	-46.5%	152	+3.4%
External	548	484	574	18.6%	582	+1.4%	561	-3.6%
<b>Total</b>	<b>667</b>	<b>708</b>	<b>849</b>	<b>19.9%</b>	<b>729</b>	<b>-14.1%</b>	<b>713</b>	<b>-2.2%</b>

### Complaints closed: 2004 – 2008



### Turnaround times – all complaints

Period	2006		2007		2008		% change from 2007
	Number	% of total	Number	% of total	Number	% of total	
0-3 months	303	35.7%	227	31.1%	272	38.1%	+19.8%
4-6 months	175	20.6%	168	23.0%	149	20.9%	-11.3%
7-12 months	191	22.5%	244	33.5%	166	23.3%	-32.0%
13-18 months	105	12.4%	60	8.2%	83	11.6%	+38.3%
19-24 months	36	4.2%	15	2.1%	25	3.5%	+66.7%
Over 24 months	39	4.6%	15	2.1%	18	2.5%	+20.0%
<b>Total</b>	<b>849</b>	<b>100.0%</b>	<b>729</b>	<b>100.0%</b>	<b>713</b>	<b>100.0%</b>	<b>-2.2%</b>

## Turnaround times – internal complaints only

Period	2006		2007		2008		% change from 2007
	Number	% of total	Number	% of total	Number	% of total	
0-3 months	36	13.1%	28	19.0%	37	24.3%	+32.1%
4-6 months	39	14.2%	17	11.6%	16	10.5%	-5.9%
7-12 months	103	37.5%	78	53.1%	32	21.1%	-59.0%
13-18 months	66	24.0%	16	10.9%	41	27.0%	+156.3%
19-24 months	12	4.4%	5	3.4%	14	9.2%	+180.0%
Over 24 months	19	6.9%	3	2.0%	12	7.9%	+300.0%
<b>Total</b>	<b>275</b>	<b>100.0%</b>	<b>147</b>	<b>100.0%</b>	<b>152</b>	<b>100.0%</b>	<b>+3.4%</b>

## Turnaround times – external complaints only

Period	2006		2007		2008		% change from 2007
	Number	% of total	Number	% of total	Number	% of total	
0-3 months	267	46.5%	199	34.2%	235	41.9%	+18.1%
4-6 months	136	23.7%	151	25.9%	133	23.7%	-11.9%
7-12 months	88	15.3%	166	28.5%	134	23.9%	-19.3%
13-18 months	39	6.8%	44	7.6%	42	7.5%	-4.5%
19-24 months	24	4.2%	10	1.7%	11	2.0%	+10.0%
Over 24 months	20	3.5%	12	2.1%	6	1.1%	-50.0%
<b>Total</b>	<b>574</b>	<b>100.0%</b>	<b>582</b>	<b>100.0%</b>	<b>561</b>	<b>100.0%</b>	<b>-3.6%</b>

## Legal Services Ombudsman (LSO) outcomes

Outcome of LSO investigation	2007		2008	
Actions endorsed	92	80.0%	161	80.9%
Formal criticism made	7	6.1%	13	6.5%
Recommendation made	16	13.9%	25	12.6%
<b>Total</b>	<b>115</b>	<b>100.0%</b>	<b>199</b>	<b>100.0%</b>

Breakdown of recommendations	2007	2008
Bar Standards Board to reconsider only	10	17
Bar Standards Board to pay compensation	5	8
Bar Standards Board to reconsider case and pay compensation	1	0
<b>Total</b>	<b>16</b>	<b>25</b>





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

**DX: 240 LDE**  
**Tel: 020 7611 1444**  
**Fax: 020 7831 9217**  
**[contactus@barstandardsboard.org.uk](mailto:contactus@barstandardsboard.org.uk)**