

**Cross-departmental programmes**

**Future Bar Training (FBT) programme**

1. The FBT Programme Board met on 2 July 2019 and discussed the lessons learnt and good practice that has been identified from the programme so far. Following the successful delivery of the Rules and Bar Qualification Manual projects, the Programme Board agreed to close formally those projects. The Programme Board also assessed the assurance mechanisms proposed by the executive so as to ensure the programme will remain on track as it transitions to being executive-led. The Programme Board has now agreed for the FBT Programme to be fully executive-led and appropriate arrangements are now in place.

***Pupillage: implementation of the Professional Statement***

2. The second wave of the pilot (2018 intake of pupils) continues, with the first round of visits complete and the final visits underway. The response to implementing the Professional Statement remains consistently positive. Some guidance was included in the new Bar Qualification Manual that was published when the new rules went live. This guidance is currently being further developed.
3. Throughout the pilot we have been concerned that a key challenge would be to ensure wider awareness of the Professional Statement and the requirement to use it in place of the checklists from September 2019, as well as the wider changes to the pupillage rules. We have engaged in an extensive programme of awareness raising through the FBT roadshows around the country, the Bar Conference and pupillage fairs, as well as ongoing attendance at pupil supervisor training events at the Inns and use of the BSB's and other social media channels. We have seen a steady improvement in the levels of awareness over the course of this programme of communications activity and communication activity will continue over the summer.

***Pupillage: Pupil Supervisor Training Outcomes***

4. We are working with COIC to agree a transitional period for implementing new training outcomes for the training of pupil supervisors, including refresher training. We have begun to draft the outcomes with training providers, including the Inns, Circuits and the CPS, and will continue to do so over the summer. This is with a view to bringing the outcomes into force in September 2020.

***Pupillage: Recruitment and Advertising***

5. We have launched a targeted engagement programme to seek feedback on the Recruitment and Advertising (RecAd) proposals: introducing a requirement to use the common Gateway timetable for all pupillage recruitment, and a requirement to use written agreements for pupillage. We have sent out the proposal paper to key stakeholders and surveys to BPTC students, recent and current pupils and pupillage providers. We have invited key stakeholders to engage with us either face to face, over the phone or in writing to ensure flexibility in our approach. To date, we have received a number of responses from key stakeholders and almost 300 survey responses. The deadline for responses is 31 July 2019. More information can be found [here](#).
6. The RecAd Project Team held a joint outreach event in June with the Bar Council and [BACFI](#) to promote employed pupillages at the Bar. The event, which was well received, was aimed at organisations that currently employ barristers, but do not train pupils. The BSB delivered a presentation on the process of becoming an Authorised Education and Training Organisation (AETO) and explained how the new Bar Qualification Rules provide more flexibility that could be attractive to the employed Bar. We understand that the Bar Council intend to publish a video of the presentation.

### ***Role of the Inns***

7. The project team continues to work with COIC and the Inns to ensure the successful delivery of enabling tools needed to implement the MOU. For example, the new Guidelines for fit and proper person checks (including DBS checks) and the new framework for Qualifying Sessions are set for implementation in September 2020. The team remains in close contact with COIC to oversee the transition and approve internal rules for both areas.
8. The project team's work to oversee the implementation will continue through 2019 and early 2020 when, in Autumn 2020, the schedules to the MOU come into force.

### ***Authorisation Framework – vocational component***

9. The first application from a potential Authorised Education and Training Organisation to deliver the vocational component has been processed and a conditional authorisation granted. Further applications are anticipated over the next few weeks.

### ***Authorisation Framework – pupillage/work-based learning***

10. An initial group of work-based learning chambers/employers, comprising a mix of new applicants and organisations that currently have pupils, have been preparing and submitting applications and providing feedback about both the application portal and the Authorisation Framework and guidance. Those in the initial group are testing the live application portal. BSB staff are testing the platform on which they assess applications and the guidance for assessors.

### **Regulatory Operations Programme (Modernising Regulatory Decision-Making)**

11. The RegOps Programme is still delivering workstreams within its allocated budget. Staff are working cohesively to deliver all workstreams and a Programme Board meeting is scheduled for 18 July where preparedness for go-live on 15 October will be reviewed. Consultation with staff over the revised staffing structure in support of the new approach commences on 16 July.
12. Outside ongoing handling of casework, the majority of PCD's attention is focussed on completing the arrangements for the introduction of the Regulatory Operations Programme changes i.e. the creation and implementation of the Contact and Assessment Team and the Independent Decision-Making Body (IDB), and the development of the new case management system (CMS). These arrangements include a comprehensive training programme for staff and all non-executive participants in the system. We are also contributing to the development of the new BSB website.

### **CMA Programme**

13. The CMA Programme Board met on 4 July and discussed the lessons learnt from the completion of the Transparency and Independent Feedback Platforms projects. A Proposal setting out how the programme evaluation could be carried out was also discussed. The Programme Board will now have to consider how momentum for the evaluation phase of the programme which could be carried out over three years is not lost as the rest of the programme approaches fruition and starts to get formally closed.

### ***Transparency Project***

14. Following approval by the LSB, the new transparency rules came into force on 1 July with the publication of the new version of the BSB Handbook (4.1). All Heads of Chambers, sole practitioners and BSB entities were written to in order to ensure that they were aware of and able to start complying with the transparency rules. We also published comprehensive guidance to assist the profession in complying with the new rules. Compliance spot-checking will begin from January 2020.

15. Following the compliance spot-checking, we will begin evaluating the effectiveness of the transparency requirements. We are likely to consider three discrete strands: implementation of, compliance with, and impact of the transparency requirements. We will aim to conclude the evaluation programme in 2021.

### **Equality and Access to Justice Programme**

16. Following a refresh of its programme plan, the Equality & Access to Justice programme is now gaining momentum and actively considering new projects like the Anti-Harassment one for inclusion into its programme structure.
17. The E&AJ Team delivered two workshops at the BPTC provider conference on 12 July. We worked with barrister and academic, Dr Charlotte Proudman, on a session about sexual harassment; and with the founder of the Association of Disabled Lawyers, Daniel Holt, on a session about creating inclusive cultures for disabled BPTC students. The outcomes of these sessions will help to shape our work to improve the impact of BPTC providers' E&D policies.
18. In addition to the previous two workshops with external stakeholders to contribute to the equality impact assessment (EIA) of the BSB's equality rules, a further workshop was designed and delivered to BSB internal teams. With over 30 participants attending, we have gathered valuable evidence that will shape the outcomes of the EIA and any changes we propose to make to the equality rules.
19. Representing the BSB, the Head of E&AJ delivered a presentation at the Westminster Legal Policy Forum 2019 Key note seminar 'Next Steps in improving diversity and Inclusion in the Legal Sector'.
20. The LSB has approved our submission to remove the additional restriction on the publication of data on sexual orientation and religion or belief, from the BSB equality rules. As a result, monitoring and publication requirements will be streamlined across all diversity characteristics. To reflect the change, we are working to update the BSB Handbook and the guidance on our equality rules.
21. On 6 July, the BSB E&AJ Team took part in London Pride alongside other legal regulators, to celebrate the contribution that the LGBT+ community makes to the profession.

### **Strategy & Policy**

#### ***BSB Handbook***

22. As set out in the Business Plan for Q1, we have initiated a project to review the Handbook with a discussion at the Board Away Day in May. We have published a Call for Evidence (available on the BSB website) and have scheduled a number of meetings with key stakeholders to gather evidence. In July the Board will consider a proposal outlining the scope of the review and asking whether certain projects should proceed in parallel.

#### ***Professional Indemnity Insurance (PII) and BMIF***

23. We have submitted a rule change application to the LSB which, if approved, would oblige single-person authorised bodies to obtain their primary level of PII cover from BMIF.

#### ***Research***

24. A contract has been signed with AlphaPlus to conduct the full evaluation of the Future Bar Training programme, following the finalisation of the evaluation design in May. The evaluation programme will run for at least four years to enable the implementation of the reforms to be

evaluated (process evaluation) as well as the extent to which the reforms have succeeded in meeting their objectives (impact evaluation).

25. Work continues on the evaluation of the Continuing Professional Development reforms, with the researchers having completed a literature review of theories and practice around CPD, held a focus group with barristers, held an internal workshop at the BSB to discuss emerging findings, and completed an online survey which received 566 responses. Work is ongoing on qualitative interviews and a further focus group.
26. Research into BSB complaints data is being conducted by the Research Team. This will analyse three years of data to investigate factors contributing to differences across gender and ethnicity in the numbers of complaints made, and the outcomes of complaints, and is a follow-up to a similar piece of research published in 2016.
27. Analysis is being undertaken to look at the impact of the change to the cut score/pass mark for the BCAT in 2018. This will help to inform future evaluation work on the BCAT changes. We are also working on a further analysis of differential attainment on the BPTC following the changes to the centralised examinations.
28. The research team is undertaking initial baselining work as part of the evaluation programme for the changed requirements for price and service transparency introduced in response to the recommendations of the Competition and Markets Authority report on legal services. This baselining was completed before the rule changes went live in early July.
29. Work on the annual publication BPTC Key Statistics has been completed and the report was published in early July.

### ***Regulatory Risk***

30. The SMT have discussed the Board's revisions to the Risk Index and have agreed an approach that responds to the Board's request for a reduction in the number of risk descriptions. The Regulatory Risk Manager is developing a new draft Index for the SMT to agree ahead of publication and is working with the Research Team to ensure the revised Index is reflected in a new risk register in time for the next reporting cycle in August / September.

## **Professional Conduct Department**

### ***Quarter 1 2019-20 – Performance statistics***

31. Performance in Quarter 1 exceeded the corporate KPI target with an 84.3% outturn against the target of 80% of cases completed within the service standards. In line with the agreed revised arrangements only a summary of the annual Enforcement Report for 2018/19 will be presented to the Board. We were originally intending to include it in the agenda for the September meeting but due to staff illness and the intense work required for the Regulatory Operations Programme, it is now scheduled for the October meeting.

### ***Regulatory Operations Programme***

32. The advert to recruit a new Independent Reviewer went out in early June and we received over 50 applications from a strong field. Interviews are scheduled for 9 and 10 July and we hope to make an appointment shortly thereafter. The Independent Reviewer will report to GRA and will be responsible, as of October, for considering requests for reviews of regulatory decisions and also for auditing a sample of individual case files for quality assurance purposes.

## ***Training***

33. The internal legal training programme continues. This month a member of the APEX panel delivered a session on how the Equality Act can be relevant to breaches of the Handbook. This included topics such as harassment and bullying in chambers, discrimination against public access clients, and other areas where Handbook obligations intersect with the Act.
34. Key staff in PCD staff attended very helpful Equality Impact Analysis Training provided by the Equality and Access to Justice Team.

## ***Litigation***

35. In relation to the two discrimination claims from the same barrister which we reported on last month, we are still awaiting a date for the matter to be heard in the High Court and a date for the preliminary hearing at the Employment Tribunal.
36. The BSB continues to defend a County Court discrimination claim, relating to the BSB's unsuccessful historic prosecution of professional misconduct charges against the Claimant and the subsequent protracted costs litigation. The claim is currently at the preliminary directions stage.
37. Finally, the BSB also continues to defend a civil claim in which it is one of eight defendants. That case alleges that the BSB committed fraud by false representation and breached the Claimant's Article 6 rights in not investigating her complaint against a barrister. An application to strike out this claim has been made by the BSB and other defendants.

## **Regulatory Assurance Department**

### ***Anti-Money Laundering and Counter Terrorist Financing***

38. HM Treasury published a [consultation on transposing the Fifth Money Laundering Directive into national law](#) on the 15 April 2019. Our response to this consultation can be found [here](#).
39. A new Legal Sector Intelligence Sharing Expert Working Group is being set up. This will help the Professional Body Supervisors, including the BSB, to meet their obligations under the Money Laundering Regulations to co-operate with other supervisory authorities, the Treasury and law enforcement authorities in relation to the development and implementation of policies and activities to counter money laundering and terrorist financing. Terms of Reference are currently being developed.
40. In March, we launched a new [Money Laundering Hotline](#). This is a confidential service that anyone can use to report a concern to us, about a person or an organisation we regulate, in connection with Money Laundering.

### ***Examinations***

41. The subject boards and final examination boards for the centrally set and assessed subjects have taken place for both the BPTC and Bar Transfer Test. Results were released to Providers on Wednesday 3 July. The assessments are working well and discriminating between strong and weak candidates effectively; they are also meeting the level of reliability expected of high-stakes examinations. The Chair's report on this cycle of assessments will be published in early August.
42. A roundtable discussion was held on 1 July with members of the profession including from the Bar Council, COIC, The Young Barristers Committee and the Institute of Barristers' Clerks to discuss the assessment of Professional Ethics that will be introduced into pupillage/work-based learning from 2021. The format of the assessment is currently under discussion and this meeting was the last in a series of several meetings with a range of stakeholders. A decision will need to be made over the summer so that the new assessment can be developed.

## ***Authorisations***

43. Since the last report the Authorisations Review Panel (ARP) met on 22 May and considered five applications for review. These comprised a Pupillage Training Organisation (PTO) application, Admission to the Bar as a Transferring Solicitor, two cases for Admission to the Bar as a Qualified Foreign Lawyer (QFL) and an application for general exemption from training requirements.
44. All five original decisions were upheld. No requests for review have been received for the next meeting scheduled for 3 July 2019.
45. The Pilot AETO application process is underway and the team has completed one application successfully. Training for the business as usual applications end to end process is planned for July. Applicants are now populating responses to their applications via MyBar and have been invited to feedback their user experience. Three members of staff are dedicated to the pilot and re-authorisation process, it is not anticipated that any additional resource is required for this piece of work. There are currently 35 AETO applications in progress.

## ***Regulatory Returns***

46. In 2014 and 2015, 400 chambers were asked to complete a Supervision Return. The Return asked Chambers to identify the risks they faced across five areas (governance and administration, client service and delivery, pupillage, equality and diversity and financial administration) and provide information about how they were managing these risks. The Supervision Team assessed all the responses and conducted a series of visits to the highest risk chambers. The Return also proved to be a rich source of information for other aspects of our work including contributing to the evidence base for the risk index.
47. The Returns process will be repeated in January 2020. It has been re-branded as a Regulatory Return to reflect the fact that the information collected will inform a wide variety of our regulatory activity; not solely supervision work. Since early 2019, the Supervision Team has been engaging with internal stakeholders across the organisation for their contributions to the Regulatory Return. We are in the process of finalising the questions we intend to ask Chambers, and are working closely with the Project Management Office to develop an online system to allow chambers to submit their responses.

## **Communications and Stakeholder Engagement**

48. Since this report was last prepared for the March Board, the following press releases and news announcements have been issued:
  - 4 June: the opening of the recruitment process for the new Director-General;
  - 6 June: calling for evidence to help scope the planned review of the BSB Handbook;
  - 7 June: the suspension of a barrister for two months for practising without a practising certificate;
  - 18 June: blog post about what our new Bar qualification rules could mean for you;
  - 1 July: publication of the latest edition of the BSB Handbook introducing the new Bar transparency rules; and
  - 3 July: publication of the annual statistical information on student performance on the Bar Professional Training Course.
  - 11 July: announcement of the conditional authorisation of the ICCA as an AETO to provide vocational training component

## ***Work in Progress***

49. In addition to business-as-usual activities, at the time of writing, the following pro-active communications are scheduled over the next few weeks and months:
- various communication and engagement activities associated with our plan to promote our work around equality and access to justice;
  - various communication and engagement activities associated with raising awareness of the implementation phase of the Future Bar Training programme; and
  - publication of the 2018-19 BSB Annual Report.
50. The team is also working on the following projects:
- a new e-newsletter about the BSB's work for our consumer-facing stakeholders;
  - finalising the 2018-19 Annual Report; and
  - development of the new BSB website later this year.
51. At the end of June, the Communications and Public Engagement team began working within its new structure. We now have two – rather than three – Level 5 posts reporting to Communications Manager, Andrew Lamberti. These are a Public Engagement and Media Relations Officer (Alex Skirvin) and a Digital Communications Officer (Fiona McKinson).

## ***Online and social media***

52. During May, 28,295 users visited the BSB website with a further 26,217 visiting during June. At the time of writing, we have 21,885 followers on Twitter, 3,858 followers on LinkedIn and 624 followers on Facebook.

## **Governance and Corporate Services**

53. Recruitment for an Independent Reviewer continues, with interviews in mid July and an appointment expected by the end of the month. The Independent Reviewer will report to the Governance, Risk and Audit Committee and will provide assurance of the BSB's assessment of incoming information, enforcement and supervision systems and processes; carry out requests for review of individual decisions; and periodic system audits of random samples of cases to give assurance that the processes and procedures are being properly followed.
54. Recruitment for the next Director General of the BSB is underway Preliminary interviews will be held with longlisted candidates over the summer, with final panel interviews to be held in September.
55. We await the Legal Services Board's announcement of revised Internal Governance Rules, anticipated for the end of the month. These rules set out the arrangements that must be in place between the Bar Council and the BSB to ensure our regulatory independence. We are scoping the work that will be required to achieve compliance in advance of the LSB's announcement of the final form of the Rules.

## **Resources Group**

56. All teams within Resources Group reported on their Q1 performance on 11 July. The project to refurbish the building and reduce our occupancy of it is now well underway and on schedule.

**Vanessa Davies**  
**Director General**  
**July 2019**