

# Strategic Plan

## 2016-19

The BSB regulates barristers  
and specialised legal services  
businesses in England and  
Wales, in the public interest



## The regulatory objectives:

- Protecting and promoting the public interest;
- Supporting the constitutional principle of the rule of law;
- Improving access to justice;
- Protecting and promoting the interests of consumers;
- Promoting competition in the provision of services;
- Encouraging an independent, strong, diverse and effective legal profession;
- Increasing public understanding of the citizen's legal rights and duties; and
- Promoting and maintaining adherence to the professional principles.

## The professional principles are:

- That authorised persons should act with independence and integrity;
- That authorised persons should maintain proper standards of work;
- That authorised persons should act in the best interests of their clients;
- That persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice; and
- That the affairs of clients should be kept confidential.



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# Foreword by the Chair

## I am pleased to introduce the Bar Standard Board's Strategic Plan for 2016-19.

This is the fourth such three-year Strategic Plan since the BSB came into existence in anticipation of the Legal Services Act of 2007 (LSA07) and the first we have published since I succeeded Baroness Deech QC (Hon) as the Chair of the BSB last year.

The final year of the last Strategic Plan proved to be very busy as we sought to complete the objectives the BSB had set itself in rather different conditions over three years ago. We commissioned and reflected upon twelve separate consultations which ranged widely over the legal services landscape and addressed issues of critical importance for the continuing success of the Bar of England and Wales, including most notably Future Bar Training. We are enormously grateful for the thoughtful thoroughness with which so many individual barristers and their representative bodies responded and for the growing engagement of consumer bodies.

Moreover we have embarked upon a major reorganisation of our systems and procedures of internal governance, designed to give the Board itself a clearer line of sight into policy issues, to make a clearer distinction between policy formulation and decisions on individual cases and to clarify and strengthen the way in which we seek and benefit from the professional advice and insights of those we regulate while preserving our independence of judgement.

This *Strategic Plan* needs to be read in conjunction with our more detailed *Business Plan* for 2016-17 and the *Risk Outlook* which we are publishing early next month after wide discussion inside and outside the profession. That said, this has not been an easy moment to crystal ball gaze, with an imminent government consultation on the future of legal services regulation, a study by the Competition and Markets Authority (CMA), continuing economic pressures and fresh drives to reduce the costs of regulation. So the opportunities for debate will continue and we shall welcome comments from any quarter.

The route and objectives set out for us in the LSA07 remain clear however. And ten years of practical experience and intensive dialogue with the Legal Services Board (LSB), the Bar Council as the Approved Regulator and other regulators in the field of legal services, not to mention long and intensive discussions within the BSB among staff, Board, barristers and lay experts, gives me confidence in our proposed Strategy. The Bar plays a critically important role in the way justice is administered and accessed in England and Wales. Firm, sensitive and independent regulation, funded by the profession, not by the tax-payer, ought to be the best way to preserve and foster public confidence in a profession that sees itself as providing a crucial public service and underpinning this country's reputation for justice and fair dealing.



**Sir Andrew Burns KCMG**  
Chair

# About this document

This document sets out the strategy and plans of the Bar Standards Board (BSB) for the period 2016–19. It describes the context in which the organisation operates and explains our role. It gives information about the work which the BSB will be doing during the period in question. We are committed to transparency and accountability

and helping people understand what we do. This document is one of several, such as our annual *Business Plan* and our *Risk Outlook* and *Risk Framework*, which give a comprehensive picture of our context, role, aims and activities over the next three years.

# About the BSB and barristers

The BSB regulates barristers and their professional practice and specialised legal services businesses in England and Wales, in the public interest. We do this in accordance with various statutes as well as our own rules and procedures. We work with a wide range of other organisations and individuals. These include organisations which represent or reflect the needs of those who use barristers' services, such as Citizens' Advice, and the Legal Ombudsman, which deals with consumer complaints about services from regulated legal professionals. We also work with the institutions of the justice system as a whole, such as the judiciary and Her Majesty's Courts and Tribunals Service; and with other legal services regulators who share our public-interest purpose. Finally, we ensure we maintain a close understanding of the profession we regulate through work within appropriate public-interest boundaries, with bodies which represent the interests of barristers, such as the Bar Council, the Specialist Bar Associations and the Inns of Court.

The BSB is independent of government, and works independently of the legal professionals it regulates. We are funded by levies raised by the General Council of the Bar, mainly consisting of practising certificate or licence fees, paid solely by those subject to our regulation ("authorised persons"). We also recover the costs of some specific regulatory services from those that use them, through fees such as those we charge for examinations and the quality assurance of training to qualify as a barrister. The law requires that the BSB is funded in this way and not by tax-payers. We currently authorise around 15,700 practising barristers working in over 700 chambers and a number of other organisations such as the Crown Prosecution Service or Government Legal Service. We also authorise around 40 businesses providing specialist legal services known as "Entities". By late

2016 we expect to be licensing Alternative Business Structures (ABSs) as well: legal service providers which do not have to be owned by lawyers alone.

The Board has 15 members who oversee the work of a staff team of around 79 people. In accordance with the LSA07, the work of the BSB and other regulators of the legal profession such as the Solicitors Regulation Authority is overseen by the LSB. The LSB is also funded by regulated members of the legal professions, but it must report to Parliament.

There are now many different people who work to provide legal services, in a market that is worth about £30 billion to the UK. Barristers specialise in providing advice and advocacy in the courts and tribunals in England and Wales. They are an integral and important part of the justice system and its administration. When people use the justice system – whether as a private individual or as a small or medium-sized enterprise (SME) or as a global multinational company – a great deal can be at stake: liberty, family or other human rights, property or sums of money. So it is important for all of society that barristers act with integrity and honesty, are competent to do the job and put the interests of the justice system and the rule of law above everything else. We are there to help barristers do that, and to reassure the public, independently of the barristers, that public interests are being well served. We also ensure that those barristers who are not currently practising do not act to undermine the trust and confidence that the public places in barristers.

# A summary of this plan

**Section A** of this plan describes the context and regulatory landscape within which we are working. We describe what we seek to achieve within that context in **Section B**. We summarise this in three Strategic Aims. In working towards our Aims we intend to address three regulatory themes that we

have identified as priorities through the work we have conducted to understand the market and the risks to the regulatory objectives which may arise. In **Section C** we set out the activity in which we will be engaged over the life of the Plan, the resources we will draw on, and how we will evaluate our success.



# Section A: The context in which the BSB works and its role

## The law relating to the BSB as a regulator

We regulate barristers and other authorised persons engaged in advocacy, litigation and specialised legal advisory work in England and Wales. Our role is laid down largely by the LSA07, which sets out objectives to:

- Protect and promote the public interest;
- Support the constitutional principle of the rule of law;
- Improve access to justice;
- Protect and promote the interests of consumers;
- Promote competition in the provision of services;
- Encourage an independent, strong, diverse and effective legal profession;
- Increase public understanding of a citizen's legal rights and duties; and
- Promote and maintain adherence by those it regulates to the professional principles: acting with independence and integrity; maintaining proper standards of work; acting in the best interests of clients; complying with the duty to the court to act with independence in the interest of justice; and keeping the affairs of clients confidential.

These objectives are shared with other front-line regulators of the legal profession as well as with the statutory oversight regulator, the LSB.

How we approach our role is also determined by other statutory requirements such as the Regulators' Code. This requires all regulators, for example, to adopt a risk-based approach to regulation and be targeted and proportionate in what they do. We also have a statutory duty to promote economic growth. We have specific duties as a public body under the Equality Act 2010.

## The changing context of our work in the 2016-19 period and beyond

Over the next ten years, barristers in England and Wales will face major challenges. These will arise, for example, from changing consumer demands and expectations, technological advances and global competition. There will also be statutory and other approaches to regulation in general that are likely to place both the public interest and the free rein of the market above the preservation of traditional practices and vested interests. Existing government pressure to deregulate is likely to continue, but at the same time we do not envisage any reduction in the trend for ever greater transparency and public accountability, especially in the regulation of professionals.

The relentless pressure on barristers' costs is set to continue. Commercial and some areas of private law are likely to be sheltered to a great extent from the changes forced on the publicly funded Bar through reductions to legal aid. The present model for the administration of justice in criminal, family and immigration courts is becoming increasingly unsustainable. Government argues that it cannot afford the cost of legal aid and court administration, and individuals cannot afford the cost of litigation. Barristers may find themselves squeezed out of the market by a declining caseload, a surfeit of barristers and increasing competition from both other regulated legal professionals as well as unregulated service providers. Barristers will also have to adjust to accelerating technological change as court systems go online and paperless and digital entrepreneurs find new ways to deliver legal services to consumers.

The impact on the Bar of this environment may be far-reaching, with direct consequences for the future

of the judiciary who are largely recruited from the Bar. This environment may also threaten the status of the Bar of England and Wales as an attractive international model and a revenue generator for the UK: the legal services sector has a turnover of some £30 billion and the Bar's "share" of that amounts to over £2 billion.

How the Bar fares will depend on the robustness and creativity of its response, the changes which government and the judiciary will bring into the administration of justice, and the speed with which consumers seek out alternative ways to address legal problems. We at the BSB, as the Bar's regulator, must act in this context to ensure that the public can continue to rely on the high standards of work and ethical behaviour historically associated with the Bar.

As the financial pressures bite on government, and political interest in deregulation grows, the chances increase that new legislation may be introduced, which could radically affect the existing regulatory objectives of the BSB and the way we undertake our work. In the summer of 2015, we contributed to work setting out some of the issues which arise in considering how regulation has developed since the introduction of the LSA07. The Government announced in late 2015 a forthcoming consultation that will contemplate regulatory reform and in particular how to develop further the independence of regulatory bodies from the historic representative bodies of the legal profession. The CMA launched in January 2016 a market study into legal services and their regulation, the outcome of which could be substantial further change. We will publish a separate document in April 2016 which will set out a great deal more information about how we see the legal services market and the wider political

context: this document will be the BSB's *Risk Outlook*.

We will participate actively in – and aim to lead – policy thinking about the future regulatory landscape as we are uniquely placed to do so: we have a deep knowledge of the profession and of the justice system but we operate largely independently of the Bar.

## Section B: What the BSB aims to achieve

Against a background of intense financial pressures, we are committed to protecting the public and consumer interest and access to justice. We will do this while balancing those regulatory objectives against the sometimes competing objective of encouraging the independence, strength, diversity and effectiveness of the legal profession.

It is in the interests of the public, the rule of law and access to justice, that the specialist skills of independent advocates are maintained and made available to all who need them. That independence may be promoted through particular business models but is driven first and foremost by professional ethics and high standards of work. It is in the interests of the Bar to have a strong regulator with deep knowledge of the profession, yet maintaining complete public and political credibility.

In the decade ahead, we are faced with two main tasks. Firstly, we will need to reconcile the public interest and an understanding of how best to maintain the rule of law and improve access to justice, with an understanding of changing consumer needs and expectations. At the same time the BSB will need to monitor and support the ability of the Bar to adapt and prosper in an exacting and demanding environment.

Secondly, we will need to reconcile high professional standards for entry to and practice in the profession, with a probable strong drive from Government to reduce the costs of legal services and make them more accessible to more people, especially SMEs. It is highly likely that Government will also want to reduce regulation and red tape, promote competition and innovation and encourage the emergence of disruptive new business models – and might intervene to bring those things about.

These are difficult things to hold in balance and reconcile. The outcome will turn on our ability to regulate advocacy to high professional and ethical standards in the public interest. It will also depend on the ability of the Bar to promote the continuing relevance of those high standards to the core principles and processes of justice in England and Wales - but without seeming to protect a closed shop for barristers or to deny consumers alternative options to pursue their legal arguments in a court of law.

We have identified three core Aims for the BSB in the period 2016-19. All our work, including the work we do to address our priority themes, will support one or more of these aims (see also Section C).

### 1 Regulating in the public interest

We want to help the public better understand the fast-changing and complex market for legal services, so that consumers of those services can make informed choices and have better understanding of their legal rights and duties as citizens.

We will nurture a deeper dialogue with consumers *and* the profession so that what we propose and what we do can be demonstrably evidence-based and proportionate to the situation in hand.

We will continue to strengthen our real and perceived independence from the profession, so that we can articulate and defend our judgements on the basis of independent and unbiased assessments of the evidence of where the profession is doing a good job for the public, as well as where any risks to the public interest may lie.

2

### Supporting barristers and those the BSB regulates to face the future

We will assist the Bar in preserving its professional identity for the benefit of the public, in a legal world where regulatory constraints apply primarily to the reserved activities, such as advocacy in the higher courts and litigation. This is particularly necessary where the forces of unregulated competition will be increasingly felt in other areas of a barrister's work and competence. For example, the public needs to understand the difference between a fully qualified, regulated and insured barrister and a "McKenzie Friend" – whether paid or unpaid.

We will help the profession to embrace closer cooperation with solicitors and other legal professionals, where that may offer advantages for the public. This could be for example in relation to better mutual recognition of education and training pathways; or in developing regulatory frameworks for business models which combine the strengths of different legal professionals in an efficient way so that benefits can be passed on to consumers.

We will ensure our regulatory frameworks do not pose unnecessary barriers to entering the market and we will reform legal education and training to support the advocates of the future. We will address the regulatory issues arising from the presence in the market of unregistered and part-qualified barristers.

3

### Ensuring a strong and sustainable regulator

The BSB will continue to position itself as the regulator of legal services which have advocacy, specialist legal advice and litigation at their core. There is a distinct public interest in our doing this because of the close relationship of these services to the upholding of the rule of law and access to justice.

We will actively promote regulatory governance arrangements which are constitutionally and financially independent of government, as well as of the profession we regulate. We need to balance this with ensuring we maintain credibility with government, politicians, the profession and its institutions. We will maintain and extend our accountability to the public.

The BSB will continue to promote its core values in all that it does: integrity, excellence, fairness, respect and value for money. We will maintain our strong track record of transparency, accountability and good stewardship of resources by setting out clear and meaningful measures of success and reporting on them openly.

We will continue to foster an environment of continuous improvement within the BSB; and to invest in the skills of our staff to work as an effective community of practice in legal services regulation.

## Prioritising our work: opportunities and risks

We have given careful consideration to how we prioritise work to advance our Strategic Aims, and to what could most enhance the achievement of the Regulatory Objectives. We have also thought about what could impede their achievement over the next few years. There are many possibilities, but our resources are finite and we must be proportionate, targeted and risk-based as a regulator, so we will focus on three themes in our Strategy.

### **Theme:**

#### **Improving how those the BSB regulates meet consumer needs**

The right of consumers to be treated fairly by the law, wherever they sit in society, and their ability to obtain appropriate redress if they have not been treated fairly, is fundamental to maintaining a fair and democratic society. This is a right that applies to all consumers, whether individuals, SMEs, large international corporations or government bodies. There is evidence, including from research by the Legal Services Consumer Panel and others, that some consumers do not understand they are in a position to seek legal redress; some decide against trying to obtain it, because they think doing so is too complex or too costly – or both. They may believe they will not get a fair outcome. Those who do decide to use a legal professional to help them may get poor advice, or other forms of poor service. Where consumers are already vulnerable, the fear, stress and harm they may experience may be exacerbated.

Our role is to:

- Regulate barristers to ensure that the consumers they engage with are given an adequate and appropriate service;
- Adopt a regulatory approach that enables legal service providers and especially barristers to adjust their service to consumers of any kind;
- Provide information that aids consumers in navigating the legal services market and the legal system more widely, whether or not they decide to use a barrister.

We will better develop our understanding of how consumers interact with the legal market and the legal system, by engaging directly with consumers. We will encourage the profession to develop its understanding of the consumers it serves and ensure its service meets the standards expected and in ways that are accessible and affordable for a wider range of clients. This includes accommodating consumers who are particularly vulnerable, and communicating well with consumers from different cultures and backgrounds.

### **Theme:**

#### **Improving diversity, and enhancing equality in practice and culture at the Bar**

Three hallmarks of a fair and democratic society are valuing individual and group differences, promoting equality of opportunity, and eliminating discrimination. Those who provide legal services are instrumental in maintaining a fair and democratic society and using the legal system to hold people to account under the rule of law. For our legal system to be respected by all who depend on it, it needs

to reflect the changing make-up of society. Most judges in England and Wales were once barristers and so it is especially important that the Bar is diverse and its practices are non-discriminatory and culturally aware and sensitive. The public will not have confidence in the profession otherwise.

Our role is to:

- Uphold our obligations under the LSA07 and the Equality Act 2010, promoting diversity in the profession and eliminating unlawful discrimination, advancing equality of opportunity and fostering good relations between different groups;
- Collect and make available high-quality data on diversity in and around the profession, to ensure good evidence of any problems and support the social and business case for improvement where necessary, as well as publicising good practice;
- Adopt a regulatory approach that strikes the right balance between enabling and enforcing compliance in this area by members of the profession.

We will publish our evidence on these issues, and will engage with the profession and diversity groups to encourage shared action. We will consistently identify and address the equality impacts of our work and target our resources where we can be most effective. We will encourage the profession to recognise where there are problems, not to tolerate poor practice and to work with us to take practical steps to improve skills in relating well to people from all cultures, walks of life and backgrounds. We will promote good practice where we find it as a model for others.

### **Theme:**

## **Responding to commercial pressures on legal services providers**

A significant proportion of those we regulate have historically depended on publicly funded work. Cuts in government spending in this area have been deep. In contrast, the economic recovery from the 2008 recession has largely continued and many practitioners, especially in commercial or private work, are thriving financially. Commercial pressures do not of themselves constitute a regulatory issue unless they compromise the Regulatory Objectives. It is not the role of the regulator to safeguard the commercial or private financial interests of those we regulate. We want to see a strong and healthy market for legal services that meets the needs of those who rely upon it. We want to safeguard consumers against the potential consequences of commercial pressures in individual practices, or the system as a whole, where those consequences are not in the interests of consumers or of justice more broadly.

Pressures in the market do have the potential to stimulate competition and innovation as providers find more efficient and attractive ways to stay competitive and do business. An example of this is the growth in the number of public access barristers who can meet the needs of consumers without using intermediaries such as solicitors.

We believe that competition can help to bring positive benefits to consumers. However, commercial pressures may also adversely affect access to legal services and can sometimes threaten professional independence and integrity if not carefully managed. Quality may suffer where financial margins are low, and clients may suffer detriment if legal providers go out of business.

Providers (whether barristers or others) may consider diversification into new areas of work, and this is generally to be encouraged – especially if it means extending the reach of services to those previously unable to access them. But diversification needs to be undertaken with sufficient diligence to ensure that the levels of competence of those involved in delivery of new services, who may be relying on their good reputation in other specialist areas, are appropriately high and are maintained.

Commercial pressures may not be evenly distributed across the market, either geographically or across areas of law, and they may manifest themselves differently too. Those areas which have historically been publicly funded may be especially vulnerable in a pressurised commercial environment because operating margins are relatively low. There can be significant challenges to the continued provision of high-quality services, which may impact on consumers in those areas, threatening access to justice. Where consumer interests need safeguarding, we may need to step in, to support both the consumers affected and the barristers who may be seeking to meet consumer needs. In those areas of the market where financial returns may be greater, there can be different sorts of commercial pressure and maintaining the independence and integrity on which the justice system and the public relies can be challenging for some.

Our role is to:

- Collect and disseminate evidence about the market and how it is changing, taking account of the varied experiences of different sectors within the Bar;
- Regulate where necessary, balancing carefully the need for quality with freedom to innovate and allowing the market flexibility to adapt;

- Understand what constitutes effective but fair intervention at market level;
- Safeguard consumer interests in specific cases where they may need protection from poor quality or disrupted provision of services in acute situations.

We will ensure we continue to be knowledgeable about the operating context for members of the profession and stay abreast of market developments. We will focus on the risk to the regulatory objectives, as distinct from commercial concerns for any particular provider.

In support of our economic growth duty, we will work with the profession to support and strengthen barristers' abilities to face commercial pressures – whilst being sure to resist becoming more closely identified with the interests of those we regulate rather than those of the public the regulator has a duty to protect. We will aim to encourage the profession to approach the changing business climate with good knowledge of the options – planning for what lies ahead rather than relying on maintaining the status quo. This could mean, for example, enabling barristers to see the business value in seeking customer feedback, or helping them evaluate new and different business models. We will help the profession retain core values through good times and bad, because this is in the public interest. We will put in place future education and training requirements for barristers which assist them to adapt and thrive in response to new commercial opportunities and threats.

We explain these three themes in more detail, and how they will be managed in the public interest, in our *Risk Outlook*, *Risk Framework* and *Risk Index*.

# Section C: How the BSB will deliver its plans

## What has been achieved in the decade since the BSB was set up

The BSB was established in 2006 and we have been working since then to transform how we operate, in order to become a modern and efficient regulator, achieving externally agreed high standards and best regulatory practice wherever possible. Under our last Strategic Plan, we made substantial progress against five related aims:

- To implement new specialist regulatory frameworks for advocacy services;
- To promote greater public and professional understanding of what we do and why;
- To set and maintain high standards of entry to and practice within the profession;
- To take a more risk and evidence-based approach to regulation; and,
- To strive for “best practice” as an organisation for those we serve and those who work for it.

Underpinning the achievement of those aims was the adoption of the Regulatory Standards Framework laid down by the LSB. In short, this meant adopting a risk- and evidence-based regulatory approach, focussing on outcomes for the public interest. We moved to using supervision of practice by barristers as a primary means of encouraging compliance with rules, and to using enforcement measures as a last resort. We invested heavily in our skills and capacity to regulate in this way, including ensuring our independence from the profession and adopting governance structures and practices which support this way of regulating.

You can read about our achievements [on our website](#) and find the latest assessment of our performance against the LSB’s regulatory standards framework [on their website](#). Notable features of the transformation of the BSB have been:

- The introduction in January 2014 of a new Code of Conduct and Handbook for barristers, which adopted a more outcomes-focused approach. The new Handbook abolished many outdated, heavily prescribed rules, which had been constraining unhelpfully and needlessly how barristers worked – such as with whom they could work closely, and what work they could do;
- Introduction of rules to help consumers make “first-tier” complaints about poor service;
- Extension of the scope of equality and diversity rules and the regulatory work to underpin them;
- The introduction in 2015 of a regulatory framework for entities: as well as regulating individual professionals, we now authorise companies or partnerships owned and run by barristers and other legal professionals, offering advocacy and specialist advice services to consumers;
- Establishment of a risk-based supervision regime for barristers’ work;
- Modernisation of our disciplinary processes and the oversight of the creation of the arms’ length Bar Tribunals and Adjudication Service (BTAS);
- Improvements to the education and training system, including introduction of centralised examinations to ensure consistent exit standards, and modernisation of regulation of Continuing Professional Development (CPD) for barristers;

- A research programme to provide necessary evidence: for example, the Legal Education and Training Review in 2013 which has resulted in a substantial reform programme; and the Youth Courts Advocacy Review in 2015 which will lead to setting of new standards and potentially accreditation for advocates working with young people in the justice system;
- Establishment of effective working relationships with regulators of legal services across England and Wales and internationally;
- Investment in training and development for our staff to ensure they have the skills needed by a modern regulator, and investing in infrastructure, eg IT systems to support our work;
- Transformation of internal governance to enhance independence; moving to a lay-majority Board, with a lay Chair;
- Focus on value for money and transparency by careful budgeting and cost control, firm stewardship of funds and clear reporting to the profession and public.

Of course “business as usual” for a regulator of professionals continued – setting standards for entry to the profession, supervising education and training, authorising barristers to practise annually and dealing with breaches of the Code of Conduct and Handbook through administrative sanctions or disciplinary action.

## The BSB’s work in 2016-19

We will organise our work to respond to the context we set out in Section A in a way that is aligned to the Strategic Aims we set out in Section B of this Plan. We have developed three Programmes of work which bear the names of the Strategic Aims. Each Programme comprises reform and change as well as continuing routine regulatory work, building on the foundations laid in our earlier strategic plan.

What we need to do in relation to the three priority themes we have identified is interwoven in the three Work Programmes, often with more than one Programme or activity contributing to addressing the three themes identified. The work we do is complex and so is the environment in which we do it, so there is rarely a one-to-one relationship between a theme and the activity we will undertake to address it. We have given examples of how work we specify under a particular Programme contributes to dealing with our priorities.

Annual Business Plans, published [on our website](#), set out further details of activity and the resources that will be used to deliver the work. There is work initiated before 2016 which must be completed or consolidated, and the 2016-17 business year in particular will see us researching and scoping new initiatives before developing and rolling them out in later years.

## Strategic Programme 1: Regulating in the public interest

Our work within this Programme will include:

- Continuing to enforce our rules in order to maintain the trust and confidence of the public in the profession, and doing that justly, swiftly and proportionately;
- Increasing the extent and depth of our communications and engagement work with the wider public, civil society and the profession through new investment in our skills in this area;
- Increasing the extent of consumer-facing work we do, ensuring that the perspective of the consumer (and especially the most vulnerable) is more central in regulatory policy making and actions: this includes revising our consumer engagement strategy and building more constructive relationships with consumer organisations;
- Undertaking “demand side” market research into what consumers need and want from barristers;
- Informing consumers about the complex legal services market, what they can expect from barristers and others we regulate;
- Participating more actively in regulatory policy work at a national and international level on the rule of law and access to justice (the protection and promotion of which are two of our Regulatory Objectives) and in relevant national strategic debates on the justice system from the regulator’s perspective;
- Ensuring the BSB and the Bar Council adopt relevant complementary roles in relation to understanding and responding to globalisation of the legal services market;
- Ensuring risk-based regulation is proportionate and founded on public interest and other Regulatory Objectives;
- Aligning regulatory decision-making to the Regulatory Objectives more consistently and clearly through improvements to the governance of independent decision-making;
- Centralising work to assess incoming information and reports about activity in the profession and market as a whole;
- Reviewing the 2016 *Risk Outlook* once further before March 2019 (the end of this Plan);
- Considering, with other regulators, what common approaches might usefully be adopted to disciplinary processes, in the public interest; and
- Policy and operational planning in order to make appropriate use of new statutory powers to prevent harm to the public and damage to the reputation of the profession if things go wrong; considering the financial protections available to consumers of barristers’ services.

## Strategic Programme 2: Supporting barristers and those the BSB regulates to face the future

Our work within this Programme will include:

- Fully establishing ourselves as a licensing authority for ABSs and supporting barristers to choose this, or other new business models, if they wish to do so;
- Fostering innovation in the delivery of legal services for the benefit of consumers and wider society;
- Responding to the CMA study of the legal services market;
- Dealing with regulatory issues relating to the presence in the market of unregistered and part-qualified barristers;
- Adapting regulatory requirements to respond to increasing use of technology by consumers and practitioners, including technology-driven reforms to the courts and tribunals system and the increasing need for adequate cyber-security; using the CPD and supervision regimes to monitor these;
- Making sure the way we regulate keeps up with globalisation, for barristers working overseas, and for foreign lawyers working in England and Wales; carrying out “supply side” research into barristers’ international practice to identify any regulatory issues;
- Reducing regulatory burdens on practitioners wherever possible so that they can remain competitive and pass the benefits on to users of legal services, including reviewing the LSA07 s15 “scope of practice” rules;
- Seeking where possible to regulate in a collaborative and constructive way, reserving enforcement action for persistent, or the most serious, instances of misconduct; fostering good relationships through the general supervision regime;
- Ensuring the new CPD regime complies with these principles;
- Reviewing the way barristers make use of professional indemnity insurance, to protect consumers and support barristers’ practices;
- Reviewing the regulatory provisions for particular types of practice, prioritising those likely to have a high impact on vulnerable consumers (for example crime, immigration and youth courts work);
- Assuring the public of high standards in those areas, including through the use of specific compulsory accreditation schemes where necessary and proportionate; supporting barristers and those the BSB regulates to maintain high standards of work in those areas in particular;
- Designing a new system of education and training for barristers and managing a transition to it; ensuring our role in that system is consistent with our regulatory focus on authorisation and risk-based, proportionate supervision;
- Improving the supervision of work-based training for barristers, both prior to full qualification and throughout a barrister’s working life; and,
- Improving diversity in access to the profession and progression within it, through targeted initiatives such as those already initiated in relation to women at the Bar, and through action to increase disclosure rates in relation to protected characteristics.

### Strategic Programme 3: Ensuring a strong and sustainable regulator

Our work within this Programme will include:

- Undertaking externally facing activity to foster public and political confidence and credibility in the BSB's independence as a regulator, particularly with regard to possible changes to the LSA07 such as full legal and financial separation of the regulatory and representative bodies, which are due to be consulted on in 2016;
- Working on further legislative reform to protect and promote in the public interest the independence of legal services regulatory bodies from both Government and the representative bodies for the profession;
- If no statutory change results from that consultation, negotiating a revised internal governance settlement with the Approved Regulator (the Bar Council) under the current LSA07;
- Working to ensure that our relationship with the Inns of Court reflects good regulatory practice and is clear and transparent, whilst respecting the Inns' legal status;
- Demonstrating accountability to the public and profession by transparency in our assurance processes, performance monitoring and reporting, through the development and adoption of a new assurance framework consistent with our revised governance arrangements;
- Continuing to work to the LSB's regulatory standards framework if required, and to what we consider to be best regulatory practice – including working on a second phase of internal governance reform focusing on the clear separation of regulatory policy-making from decisions on individual cases;
- Establishing an advisory pool of external experts (APEX) to ensure that the BSB always has access to the best possible expertise and advice in support of its work;
- Restructuring the organisation internally to bring greater coherence to the delivery of our strategy and future regulatory approaches;
- Developing staff well-being, performance management, recruitment, retention, career progression and succession;
- Developing capacity and capability including further refinement of regulatory tools such as the policy development framework, research, evidence base, and knowledge management;
- Investing in better Information Management (IM) and technology to promote more agile and smarter working;
- Enhancing efficiency and financial sustainability, including for example moving out of our current premises when our lease expires; and
- Embedding closer cooperation with other regulators where this is appropriate and in the interests of the public, including through shared research, structured regular contact and agreement of common strategic approaches where there is public benefit in those.

## How our aims and our priorities are linked

As we conduct the work described above in support of our aims we will be concentrating on our three priority areas. This is illustrated below (although not exhaustively):



# Financial forecasts for the 3-5 year period

We have worked hard over the past few years to flatline or reduce operating expenditure and have always lived within our agreed budgets. Changes to regulatory approaches will put more pressure on our cost base in the 2016-19 period and we will have decreasing reliance on regulatory income outside the Practising Certificate Fee (PCF). We are a “full service” regulator by statutory necessity, but have a relatively small regulatory population on whom we can call for funds. We will therefore seek economies of scale through, for example, working more with other organisations where we can.

The public purse makes no contribution to our funds, and we think that is important so that our regulation can be independent of Government. Currently 65% of the funds raised from the profession in PCFs is used by the BSB to regulate the profession. The remaining 35% is used by the Bar Council in accordance with specific “permitted purposes” under s51 of the LSA07. A further statutory levy on the profession is made by the LSB. Our capacity to reduce the burden of regulatory costs on the profession is thus constrained and to an extent driven by strategies and work not actually owned by the BSB; the LSB can drive our work programme in a way that can increase our costs, and the BSB rightly has no say in the policy priorities of the Bar Council which are funded by the PCF.

The BSB was set up in anticipation of and in accordance with the LSA07 by the General Council of the Bar so that regulatory responsibilities could be discharged independently. The BSB does not have a separate legal identity and depends on the Bar Council to raise funds for its needs. The Bar

Council is the employer of all BSB staff members. We think our legal and financial relationship with the Bar Council, which is also the representative body for the Bar, could be better communicated to and understood by both the public and the profession. There exist sound arguments for full separation of the two bodies, so that the regulator can become more accountable for its regulatory work, and operationally independent of the profession, and so that barristers can control better how they are represented and at what cost. Both the Bar Council and the BSB will be better able to carry out their respective roles more transparently and powerfully, and it is in the public interest that both bodies do so. We recognise that the cost of change, especially for a small organisation like the Bar Council and BSB, may be considerable and a thorough cost-benefit analysis of change needs to be undertaken. There are many ways for example in which the regulatory body could, in a different future landscape, share costs with other organisations.

Our direct operating costs for 2016-17 will be £5,213k and we will employ 79 people. This represents a 4% reduction in costs over the previous year’s budget. The total cost of regulation is £8,173k, which includes the BSB’s share of the overheads and corporate provisions of the Bar Council (£2,960k). Our three-year plan sees the maintenance of the baseline for direct operating costs and whilst we will always strive for value for money, efficiency and cost reduction where we can, we think it would be irresponsible to promise at the outset of our Plan further operating cost reductions in subsequent years given the context and uncertainty we have outlined earlier in this strategy.

## Success measures

We will develop and publish an assurance framework which will allow us to evaluate how well we are managing the three thematic risks of failure to meet consumer demand, lack of diversity at the Bar, and commercial pressures on the profession. We will use the framework to evaluate the extent to which we are regulating in the public interest, supporting those we regulate to face the future and are a strong and sustainable regulator. Our guiding lights in measuring our success will be transparency and accountability.

We will continue to set realistic but challenging targets and performance indicators for the delivery (on time and to budget) of our projects and for our service standards associated with, for example, regulatory case management or decision-making. We will continue to report on these in a transparent and accessible way. Over the life of the Plan, we will aim to develop measures of success in relation to the quality of our regulatory decision-making in a way that we have not previously done.

As long as the LSB requires our periodic assessment against their standards framework, we will aim to perform at least satisfactorily in relation to those standards, and this will also be a direct measure of our success.

## Governance information

Our Board is chaired by Sir Andrew Burns KCMG. Our Vice Chair is Naomi Ellenbogen QC.

The Board is responsible for ensuring that sound and effective arrangements are in place so that the organisation can operate in accordance with its organisational values and good governance principles.

The names of all our Board members and any advisers, their professional backgrounds and details of their terms of office and declarations of interest are all available [on our website](#).

Information about the executive team, led by the BSB's Director General Dr Vanessa Davies, can also be found [on our website](#).

## Contacting us

We are committed to providing a high standard of service and dealing with everyone in a way that is fair, transparent, and proportionate. We welcome your feedback on our services, particularly where the level of service has exceeded or fallen below your expectations.

Your comments and suggestions are important to us as they will help us to meet our obligations to you and to improve our performance.

Write to us:

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

DX: 240 LDE

Phone us: 020 7611 1444

Fax us: 020 7831 9217

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