

<p>BAR STANDARDS BOARD</p>
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REGULATING BARRISTERS

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

Thursday 27 March 2014, Room 1, First Floor  
289 – 293 High Holborn, London, WC1V 7HZ

<b>Present</b>	<p>Ruth Deech QC (Hon) (Chair) Rolande Anderson Rob Behrens – items 8-13 Sarah Clarke Malcolm Cohen Justine Davidge Simon Lofthouse QC Patricia Robertson QC Tim Robinson Andrew Sanders Sam Stein QC Richard Thompson Anne Wright</p>
<b>Attending by invitation</b>	<p>Sarah Brown (Special Adviser) – items 8-13 James Wakefield (COIC representative)</p>
<b>BSB Executive in attendance</b>	<p>Joseph Bailey (Policy &amp; Projects Officer, Regulatory Policy Dept) Viki Calais (Business Manager) Andrew Cohen (Business Support Officer) Vanessa Davies (Director) Chloe Dickinson (Governance Support Officer) Eugene Grant (Communications &amp; Press Officer) Suchitra Hammond (Senior Policy Officer, Regulatory Policy Dept) Oliver Hanmer (Head of Supervision) Ewen Macleod (Head of Regulatory Policy) Chris Nichols (Supervision Policy Manager) John Picken (Board &amp; Committees Officer) Robert Pragnell, Senior Policy Officer, Regulatory Policy Dept Amanda Thompson (Head of Strategy &amp; Communications) Simon Thornton-Wood (Head of Education &amp; Training)</p>
<b>Bar Council Executive in attendance</b>	<p>Stephen Crowne (Chief Executive, Bar Council)</p>
<b>Observer</b>	<p>Tim Fry (Member, Governance, Risk &amp; Audit Committee)</p>

**Item 1 – Welcome and introductions**

1. The Chair welcomed members and guests to the meeting.

**Item 2 – Apologies**

2.
  - Sam Stein QC;
  - Stephen Collier (BC Treasurer);
  - Nick Lavender QC (BC Chairman);
  - Mark Hatcher (Special Adviser to BC Chairman, Representation & Policy);
  - Joanne Dixon (Qualifications Manager).

*Note: Emily Windsor (Special Adviser) and Ben Denison (Chief Information Officer) attended for items in Part 2 of the meeting only.*

**Item 3 – Members' interests and hospitality**

3. None.

**Item 4 – Approval of Part 1 (public) minutes – 20 February 2014 (Annex A)**

4. The Board approved Part 1 of the minutes of the meeting held on Thursday 20 February 2014.

**Item 5 – Matters arising**

5. Feedback about the Handbook – comments / queries from barristers (min 7 – 20/02/14)

The Chair asked about feedback from barristers on the new Handbook, in particular, as to whether there were any demonstrable patterns to enquiries. Ewen Macleod advised that:

- the Bar Council's ethics helpline had been busy since the launch of the Handbook but that there had not been any stand-out issues. Many enquiries were from barristers still unused to the "permissive" nature of the Handbook who had largely sought reassurance as to the legitimacy of proposed courses of action;
- initial enquiries predominantly concerned authorisation to conduct litigation but these have since reduced in volume. Others either concerned entity regulation and alternative business models or have identified some typographical errors which have since been addressed;
- one particular line of enquiry concerned the management of confidential information when work is outsourced to junior staff. In response, the Bar Council will produce guidance on the data protection principles involved.

**Item 6 – Action Points & Forward Agendas**

6. Action points and progress (Annex B)

The Board noted the updates to the action list as set out in Annex B.

7. Forward agendas (Annex C)

The Chair commented as follows:

- there will be a further discussion on the implementation of the Legal Education and Training Review (LETR). The forward agenda list will therefore be amended to reflect this;
- the Board Away Day (30 April) will be held at The Hatton, 51-53 Hatton Garden, Holborn EC1N 8HN.

**Item 7 – Governance Manual**

BSB 019 (14)

8. The Board considered the Governance Manual. The following comments were made:
- the Manual has been subject to considerable revision and scrutiny by the Governance, Risk & Audit Committee but is now complete;
  - there is no direct reference to the management of conflicts of interest. This is covered in Standing Orders but it would be useful to include a reference in the Manual as well;
  - notwithstanding the annual review cycle and the embedding provisions set out in paragraph 9 of the report, the Manual needs to be actively used as a reference tool throughout the year. There may be scope for linking it with Board appraisals / skill requirements. This could be discussed at the Away Day.
9. The Board commended the thoroughness of the Manual and thanked Chloe Dickinson for her work in its production.
10. **AGREED**
- a) to approve the Governance Manual subject to inclusion of an additional paragraph on conflicts of interests with cross references to the Standing Orders. **CD**
  - b) to note the activities set out in paragraph 9 of the report concerning implementation of the Governance Manual.
  - c) to request that the Governance Manual features in discussion at the Board Away Day in April 2014. **VLD to note**

**Item 8 – Supervision – programme of activity for 2014/15**

BSB 020 (14)

11. Chris Nichols highlighted the following:
- the programme of activity includes specific supervision projects as well as general supervisory work. The projects planned are:
    - ❖ impact audit surveys to identify risk impact scores (April – May 2014);
    - ❖ supervision returns from the 400 chambers with the highest impact scores (June-September 2014);
    - ❖ thematic reviews targeted at specific high risk areas such as immigration, litigation and public access work (October 2014 – March 2015);
  - ongoing supervisory activity relates to working with chambers and entities to reduce risk ratings. Priority will be given to chambers / entities that have been assessed as high risk. Where necessary, it will also involve visits to chambers / entities;
  - the work of the Pupillage Sub-Committee has been subsumed by the Supervision Team. In consequence visits might also be made in response to specific issues concerning pupillage.
12. Members commented as follows:
- there may be insufficient time to undertake a large thematic review if a smaller scale undertaking is expected to take three weeks as indicated in paragraph 37 of the report;
  - the inclusion of barristers on visiting panels would add expertise and gravitas. This has been the case with those organised in the past by the Professional Conduct Department;
  - it would be useful to understand the future reporting mechanisms to the Board and the timetable for these;

- responsibility for compliance with the Handbook remains with barristers. We must avoid giving any impression that the momentum for this has transferred to the Supervision Team.
13. In response, the following comments were made:
- the original intention was that visits are staff led. The Supervision Team will increase its expertise with experience and it would also give a positive message about the Board's confidence in BSB staff if visits remain led by staff. A number of pilot visits are being arranged and the desirability of including barristers can be assessed from the feedback received;
  - notwithstanding the above, and as set out in paragraph 15 of the report, there will be a panel of advisers established with expertise in each area of regulatory activity;
  - the ongoing work of the Supervision Team will be summarised in the Director's report to the Board. There will also be an annual reporting cycle focusing on trends over time and the management of risk.
14. **AGREED**  
to note the proposed supervision activity for 2014/15 and the arrangements contained therein.

**Item 9 – Chair's Report on Visits and Meetings: Feb 14 – Mar 14**

BSB 021 (14)

15. The Chair referred to her report on visits and meetings and highlighted the following:
- the high quality of the advocacy lecture she attended at Gresham College (5 March 2014) conducted by Sir Geoffrey Nice QC and Sarah Clarke;
  - her meeting with Paul Philip, the new Chief Executive of the Solicitors Regulation Authority (26 March 2014). She intends to meet the new Chair of the SRA, Sir Michael Pitt, in April.
16. **AGREED**  
to note the report.

**Item 10 – Director's Report**

BSB 022 (14)

17. The Board considered the Director's report. The following comments were made:
- the fuller style of the report is welcome as it provides a good overview of activity for both the BSB and the support provided by Central Services;
  - cumulatively, the reports will be useful reference tools for compiling the BSB Annual Report as well as for new Member inductions;
  - PRP Committee members have already expressed an interest in receiving the Director's reports. Whilst they are already publicly available via the website, it would be helpful if they were mailed separately both to them and other non-Board members of BSB committees.
18. **AGREED**
- a) to note the report.
  - b) to request that the Director's report be routinely mailed to non-Board members of BSB Committees.

JP

**Item 11 – Any Other Business**

19. Strategy update, Business Plan 2014-15 & Budget 2014-15 – final version  
The Board considered the above item in private session. This was because the relevant agenda paper was issued in advance of the Bar Council's Finance

Committee meeting held on 25 March 2014. This meeting considered the budget for 2014/15 and associated staffing changes. In consequence it was not possible for the Board to publicly commit to a schedule of activity without first having formal approval for its expenditure plans. This meant the item needed to be marked for consideration in private session.

20. On the day of the meeting, however, the Board did resolve to make these documents, and the debate relating to it, publicly available in line with previous practice. The minutes arising from discussion on that item are therefore given below.
21. The Director commented that:
  - the content of the strategic plan update and business plan reflect the guidance given by the Board at its meeting in February including amendments to the KPIs for equality and diversity;
  - the Finance Committee approved the budget pending agreement on the apportionment of costs between the Bar Council and BSB for shared services;
  - the Chief Executive is developing a longer-term planning initiative for the whole organisation which will impact on the BSB, eg in terms of the future office location. It would therefore be helpful if he attended the April Away Day to discuss this further.
22. Members commented as follows:
  - the Business Plan refers to setting out how Freedom of Information (FOI) compliance could operate within the BSB, were this to be necessary. Our default position should already be to disclose information where appropriate;
  - allied to the approach to FOI, further consideration of the amount and types of business taken in public and private sessions of the Board is merited to ensure transparency is appropriately addressed;
  - there is no benchmark figure to measure success for the number of reports of serious misconduct (Strategic Aim 3b);
  - in subsequent years, it would improve presentation if we could succinctly demonstrate how much of our resources are allocated to each strategic objective;
  - the Chief Executive should be invited to attend the Away Day (cf min 21 above) but this should be to simply to present his findings. The Board will discuss the points raised in private and provide feedback through the Chair and Director at the Bar Council meeting in June;
  - given their past input, it would be appropriate to forward the final version of the business plan to members of the PRP Committee.
23. In response the following comments were made:
  - at present, the BSB would face difficulties in achieving full FOI compliance. The Act gives specific requirements for response times, as well as data that must be published and maintained, all of which has resource implications;
  - the Senior Management Team does already address the issue of paper status at its pre-agenda meeting. Notwithstanding this, there would be some benefit if the Board could develop a set of principles at its Away Day on the extent to which items can be considered in public. This will need to address the Board's appetite for how much it wishes its policy development process to be disclosed to the public;
  - the duty for members to report instances of serious misconduct only came into effect from 6 January 2014. This explains the absence of a benchmark figure;

- we do not have sufficient cost activity analysis data to give information on resource allocation by objective. The pie chart on the BSB budget shows how the money is divided between Departments.

24. **AGREED**

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| a) | to endorse the content of the business plan 2014/15.   | <b>AC to<br/>note</b>      |
| b) | to note that these activities will be monitored quarterly by the PRP Committee and the Board during 2014/15.   |                            |
| c) | to note the revised 2014/15 budget and staffing changes.   |                            |
| d) | to endorse the newly proposed strategic KPIs and measures.   | <b>AC to<br/>note</b>      |
| e) | to circulate the final business plan document to the PRP Committee.  | <b>AC</b>                  |
| f) | to develop a set of principles on disclosure at the April Board Away Day to help guide which items should be included in either public or private session. | <b>AT / JP to<br/>note</b> |

**Item 12 – Dates of next meeting**

25. Wednesday 30 April 2014 (Board Away Day).  
Thursday 22 May 2014 (Board meeting).

**Item 14 – Private Session**

26. The following motion, proposed by the Chair and duly seconded, was agreed:

That the BSB will go into private session to consider the next items of business:

- (1) Discussion with the Bar Council Chief Executive and Chief Information Officer on IT;
- (2) Approval of Part 2 (private) minutes – 20 February 2014 (Annex A);
- (3) Matters Arising;
- (4) Action points and progress – Part 2 (Annex B);
- (5) Strategy update, Business Plan 2014-15 & Budget 2014-15 – final version;
- (6) Scheme of delegations;
- (7) Cab rank rule and public access;
- (8) Development of Education & Training Regulation in light of the Legal Education & Training Review;
- (9) Any other private business;
- (10) Note on appointment of Chair in succession to Baroness Deech QC (Hon) Jan 2015 and appointment of Board members for 2014 and 15 (*item was deferred from the February meeting*).

27. The Bar Council Chief Executive and the Chief Information Officer were invited to attend for item 1 of the Part 2 agenda (discussion on IT). This followed the Board's meeting on 20 February when it reviewed the corporate risk register and noted the critical dependencies on IT projects. In consequence the Board had asked to discuss IT governance with the Bar Council Chief Executive at the March meeting.
28. The Chief Executive outlined a number of steps to improve the governance and project management of IT. The Board asked the Senior Management Team to give this further consideration and requested an update report in July.
29. The meeting finished at 5.30 pm.