

## **BSB Equality and Diversity Committee**

### **Comments on LETR Discussion Paper 'Equality, Diversity and Social Mobility Issues Affecting Education and Training in the Legal Services Sector'**

#### **Summary**

1. This paper sets out the comments of the BSB Equality and Diversity Committee (EDC)<sup>1</sup> on the above LETR discussion paper. The EDC are offering general comments on the paper as opposed to a formal response as the BSB are one of the three commissioners of the LETR. We considered it to be more appropriate and constructive to offer comments on those issues where factual corrections are needed, rather than addressing all of the consultation questions in turn.

#### **General Comments**

##### Equality and Diversity Rules

2. The paper makes no reference to the new equality and diversity rules of the code of conduct which are due to be introduced by the BSB in September of this year. These new rules are the most significant E&D changes to the code in many years and require barristers to implement policies which have never been required of them in the past either by regulation or statute. The rules are broad in nature and cover a number of areas including training. A rule is being introduced requiring all members of selection panels to have been trained in fair recruitment processes by July 2014. At question 25 the consultation asks if regulators should require diversity training for senior staff in chambers – this is a concept with which we already agree and are intending to implement.
3. There is an inaccuracy at paragraph 6, footnote 3. Contrary to what is stated, there is currently *no* 'Equality Code' in place which requires all members of chambers' recruitment committees to undertake equality and diversity training. The BSB E&D team are happy to speak with the LETR research team prior to the recommendations being produced to clarify the details about our new E&D rules and how they differ from the equality provisions in the current code of conduct.

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<sup>1</sup> The Equality and Diversity Committee of the Bar Standards Board is comprised of 11 members; 5 barristers, 5 lay people and a lay Chair.

4. Paragraph 85 states that in self-employed practise at the Bar there is “limited scope for flexible working”. However, self-employment is by its nature flexible due to an absence of contractual working hours. We feel it is the role of the BSB to encourage and facilitate easier access to flexible working arrangements, and our new E&D rules will require all chambers to have a flexible working policy in place.

#### Representative issues

5. Too much of the paper focuses on issues over which the BSB and other legal regulators have no control, such as early years education and university admissions. Other issues raised by the paper fall within the remit of representative bodies, such as mentoring and engagement. It would therefore have been helpful to know whether the final LETR recommendations will be presented to the Bar Council in addition to the BSB so that the representative issues can be properly considered.

#### Evidence base

6. Throughout the paper, a lack of data is frequently cited as a reason why suggestions of practical solutions are not provided. For example, paragraph 61 states, in relation to the BPTC, that “the lack of hard data on trends at this stage prevents us from answering questions in a meaningful way”, however the Bar Council holds a huge amount of data and research about the Bar, and diversity statistics on the BPTC, pupillage and the Bar as a whole can be easily found on the BSB website<sup>2</sup>. The equality concerns at the Bar and the underrepresentation of certain groups are longstanding issues that we feel should not be overlooked on the basis of a perceived lack of evidence.
7. Some arguments in the paper are difficult to understand as the evidence is not fully referenced. For example, paragraph 40 refers to “general studies...have consistently shown that white students are more likely to graduate with a good degree than students from any other ethnic group”. We would encourage clear references in instances such as these so ‘general studies’ are listed, and ‘good’ degrees are defined. In order for strong conclusions to be drawn from any discussion paper, evidence must be properly referenced and generalisations avoided.

#### Terminology

8. The terminology used in parts of the paper would benefit from being more fully explained. For example, paragraph 40 states that “the attainment gap remains largest between white and black students”. In this case, does ‘white’ refer to white British students? Does ‘black’ include BME students? It is unclear, and therefore difficult to understand.

#### BSB EDC

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<sup>2</sup> [www.barstandardsboard.org.uk/about-bar-standards-board/equality-and-diversity/equality-act-2010-publication-of-information/](http://www.barstandardsboard.org.uk/about-bar-standards-board/equality-and-diversity/equality-act-2010-publication-of-information/)