

**The Council of the Inns of Court**

**The Bar Tribunals & Adjudication Service**

**MINUTES OF THE STRATEGIC ADVISORY BOARD MEETING**

**Wednesday 2nd December 2015**

The Tribunal Suite, 9 Gray’s Inn Square, WC1R 5JF

|  |  |  |
| --- | --- | --- |
| 1 | ***Present:*** *Clare Dodgson Chair of SAB and Lay Representative* *Malcolm Cohen Lay Board Member, Bar Standards Board Vanessa Davies Director General, Bar Standards Board* *Emir Feisal Member, Inns’ Conduct Committee**Joan Martin Lay Member, Tribunal Appointments Body**Sheila Hollingworth Panellist, Disciplinary Tribunal Pool* ***Apologies:*** *Stuart Sleeman Chair, Disciplinary Tribunal Service**Heather Rogers Interim Chair, Inns’ Conduct Committee****In Attendance:*** *Hayley Addison Administrator, BTAS* *John Hall Business Support Officer, BSB**Margaret Hilson Administrator, BTAS**Andy Russell Registrar, BTAS**James Wakefield Director, COIC**Natasha Williams Business Support Officer, BSB* |  |
| 2 | **Minutes of the Last Meeting**The minutes of the meeting held on 15 September 2015 were confirmed and will be placed on the BTAS website.  | Annex A |
| 3 | **Actions from the Last Meeting**The Board noted the update on actions from the last meeting as detailed in Annex B. | Annex B |
| 44.14.2 | **Matters Arising from the Minutes***BSB Consultation on Reforms to the Disciplinary Tribunal Regulations* (Minute 6, SAB 15.09.15 refers) – The Chair stressed to the SAB how this exercise had served to illustrate the value of the Strategic Advisory Board. Members had provided meaningful and informed comments, which in very large measure had been taken on board and incorporated into COIC’s formal response to the BSB. The Director of COIC passed on that both the members of the Working Group drafting the response, and the COIC Trustees (on whose behalf the response was drafted), were extremely grateful to the SAB for their efforts.The Director General of the BSB confirmed that all the responses to the Consultation they had received were now being analysed, and a paper would be put to their January Board meeting with recommendations. Following this, an application would then have to be made to the Legal Services Board for their approval for any changes to the DTRs, however the timings for this were currently unclear. The BSB’s intention had been for the new DTRs to come into effect from autumn 2016, but it was not certain whether this was still achievable.The Director General highlighted that one area that had gained considerable support in the responses to the Consultation was the suggestion that all disciplinary tribunals be made up of three individuals (rather than some with five as at present). This was included in the Consultation purely to canvas views, but in view of the strength of the support for this in the responses it was consequently possible that such an amendment might now be included in the revised DTRs.It was agreed that the Director General would provide an update on this subject at the SAB’s next meeting. **Action 1: VD** New Appraisal Policy (Minute 4.2. SAB 15.09.15 refers) – The Registar advised the Board that BTAS was, as agreed at the September Board meeting, gradually rolling-out the new appraisal system on a hearing-by-hearing basis. The rationale for implementing the new system in this way was explained by the Registrar. To date, this had been piloted in three 3-person panels and one 5-person panel. The initial feedback from this process so far was mixed. While one panel had been very welcoming of the new system (and provided several very useful observations in their completed appraisal forms) others were less positive. Some comments had been particularly negative and it was important to discuss and understand the reasons for this. The concerns they had raised could be summarised as:* The number of questions to be completed was felt to be unnecessary and burdensome.
* A sense by some panel members that this was akin to ‘spying’ on their co-panel members, which they reported made them extremely uncomfortable.
* That this was unlikely to lead to useful results, as in the vast majority of cases all panel members would score 4 (the maximum mark under the system) across the board.

The responses of the SAB to the Registrar’s summary were similarly mixed, with strong and contrasting views being expressed as part of a full and constructive discussion. 1. Some members felt the concerns raised were understandable and should be recognised. Ideas for reducing the number of questions were suggested, including scoring panel members at a ‘summary’ level. Only where a concern was raised would there then be a need to drill down into scoring individual competences.
2. Other members stressed that this was essentially a change management process and should be treated as such. Appraisal systems very similar to this were the norm and successfully established in many other organisations. It was unacceptable if some panel members were not meaningfully engaging with this vital and mandatory requirement. It was suggested that a more robust roll out process, directly linked with a communication and development programme, would have generated greater ownership and understanding of the changes. This approach might have avoided the current negative reaction by simply introducing the new appraisal system and informing people that it was now in effect.

The SAB agreed that the principle of meaningful appraisal was non-negotiable, and that it must be more than simple exception reporting (i.e. merely raising significant concerns). It was noted that some of the points were exacerbated by structural difficulties (such as the fact that barrister panel members were not paid whereas lay members were, and that Judicial Chairs of Panels were not members of the COIC Disciplinary Pool), but that any appraisal system must provide valuable *output*, and that ensuring this must be the SAB’s priority. The Chair thanked members for their contribution and noted that although the views of individual SAB members differed significantly on some points, everyone was seeking to achieve the same result. It was important that the debate had recognised this wide range of opinion, but now it was necessary to agree the next steps. The SAB concluded that it was premature to consider making any changes to the current appraisal system or the manner of its roll-out based on the limited evidence currently available. Instead it agreed that the matter should be revisited at the next meeting, with discussions informed and guided by a written report from the Registrar setting out all quantitative and qualitative data on the new appraisal system available at that stage. **Action 2: AR**It was also noted that the recruitment and training events planned in 2016 should give appraisal a high profile. They should make it absolutely clear that appraisal was a vital and compulsory requirement for all panel members, requiring full engagement at the outset from all those involved. Finally, it was clarified that the new system was not designed to apply to clerks, and it was accordingly agreed to not attempt to start appraising clerks until the panellists’ system had been thoroughly reviewed by the SAB. | Annex C |
| 5 | **Key Performance Indicators**The SAB received the latest KPI data and the accompanying Executive Summary, and agreed that this provided reassuring evidence that BTAS continued to perform satisfactorily in all areas.   | Annexes Di and Dii |
| 6 | **Review of Adjourned Cases**The SAB welcomed the summary of adjourned cases, and thanked the Chair of the Disciplinary Tribunal Service for his efforts in reviewing these. The SAB agreed that, from the information provided, there could be no suggestion that cases were being adjourned except when absolutely necessary. It did suggest, for the purposes of improved future monitoring and reporting, that a distinction be made between ‘adjournments’ (agreed on the day of the Tribunal) and ‘postponements’ (before the Tribunal had first met to commence any substantive consideration of the case). The Registrar clarified, in the interests of transparency, that the annexes set out details of all *adjourned* cases, as had been requested. However, the potential remained that a small number of cases could have been ‘postponed’ *before* a date was agreed for the Tribunal (and hence (i) had not progressed to a stage where they could be described as adjourned, and accordingly (ii) would not appear in the Annexed information. The SAB agreed that this should be investigated and, if appropriate a report be made in the same way setting out the details of such cases for the SAB’s reference. **Action 3: AR & MH**  | Annexes Ei & Eii |
| 7 | **New Inns’ Conduct Committee Rules**The BTAS Administrator informed the SAB that the BSB had approved the proposed new ICC Rules at their October Board meeting, and had subsequently passed them onto the LSB for consideration. Until final approval was confirmed by the LSB it was premature for BTAS to provide any detailed training or guidance to those involved, but it had already commenced ‘observation sessions’ to enable members of the Disciplinary Pool to familiarise themselves with the broad approach and unique character of ICC hearings.The Director General of the BSB confirmed that while their assumption had been that the LSB would ‘fast track’ the approval of the new ICC Rules in accordance with their previous approach, it now appeared that they were preparing to commence a full approval process which inevitably meant any eventual implementation of the new Rules could be significantly later in 2016 than first envisaged. The BSB were attempting to clarify the LSB’s approach with them and would let BTAS know the likely timings as soon as they were available. **Action 4: VD**The Chair of the SAB took the opportunity to thank the Director General of the BSB for her and her team’s efforts in this matter, and particularly for their willingness to include the ICC Rules on the agenda for their October Board meeting at such short notice. |  |
| 8 | **Recruitment of Disciplinary Panel Members and Clerks in 2016**The Registrar and the Chair briefed the SAB on the outcomes of the last Tribunal Appointments Body (in October 2015) and specifically the approved plans to recruit new Panel members and clerks in 2016, so that they could be appointed with effect from 1 January 2017.The SAB welcomed this update, and suggested that (in view of the discussions on 4.1 above) it would be appropriate to closely monitor the potential move to all-3-person panels, as this would inevitably have a large impact on the size of the panel needed to service the Tribunals. The Registrar acknowledged this, and also clarified that any decision on the number of new panel members to be *appointed* could be made well after the recruitment process had started. In the light of all the discussions at this meeting of the SAB, it was agreed that a commitment to appraisal should be a key element in the recruitment exercise; that no expectation of reappointment should be allowed to be inferred, and that the TAB should consider not appointing candidates even following a favourable interview if that would mean the total size of the Panel growing too large. |  |
| 9 | **BTAS Annual Report 2015**The Registrar asked the SAB for potential topics for inclusion in the 2015 report. It was suggested that the use of anonymous ‘case studies’ would increase reader interest, and the Report should be made as visually attractive as possible. An overview of the work of SAB, and particularly their role in the ICC Rules and DTR Consultation, could also be included. The Registrar welcomed any further suggestions, to be received by 11 January if at all possible. **Action 5: All** |  |
| 10 | **Dates of Future Meetings**The Registrar reported that the ‘doodle poll’ he had set up to canvas for availability to meet in 2016 had so far received only 3 responses.The Chair asked all members who had yet to complete the poll to please do so, to help maximise attendance at all meetings of the SAB in 2016.  **Action 6: All**  |  |
| 11 | **Any Other Business**It was noted that appraisals for members of the SAB would need to commence in 2016, and that this should be discussed at the first meeting in the New Year. **Action 7: AR**  |  |