## Strategic Advisory Board Meeting

### 28th June 2017, 14:00-16:00, The Rose Heilbron Room, Gray’s Inn

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|  | Welcome and Apologies | | |
| a. | Present *Clare Dodgson Chair of SAB and Lay Representative*  *Vanessa Davies Director General, Bar Standards Board*  *Nicola Sawford Lay Representative, Bar Standards Board*  *Stuart Sleeman Chair, Disciplinary Tribunal Service*  *James Wakefield Director, COIC*  The SAB was mindful that attendance at this meeting was lower than usual, but in the absence of any reference to quoracy in its *Terms of Reference* and, given its role as an *advisory* board, those attending were satisfied that it was still possible for valid and useful discussions to take place. | | |
| b. | Apologies *Dan Burraway Corporate Support and Contract Manager, BSB*  *Emir Feisal Member, Inns’ Conduct Committee*  *Sheila Hollingworth Panellist, Disciplinary Tribunal Pool*  *Joan Martin Lay Member, Tribunal Appointments Body*  *Heather Rogers Interim Chair, Inns’ Conduct Committee* | | |
| c. | In attendance *Francis Leeder Administrator, BTAS* (for discussion of agenda points 7 and 8)  *Andy Russell Registrar, BTAS*  *Natasha Williams Business* *Support Officer, BSB* | | |
| d. | **Thanks**  The SAB noted that Emir Feisal would be stepping down from the SAB and the ICC with the introduction of the new ICC Rules on 1 August 2017. The Committee asked that their thanks and grateful appreciation of his efforts since the SAB’s inception be recorded and passed onto him.  The SAB was also sad to learn that this would be Francis Leeder’s last meeting, as he was moving onto another role elsewhere. The Committee congratulated him and thanked him for his work over the last year. | | **Action 1 (AR/CD)** |
|  | Minutes of last meeting The minutes of the meeting held on 15 March 2017 were approved and will be placed on the BTAS website. | Annex A | |
| 1. 3. | Actions from the Last Meeting The SAB noted the update on actions from the last meeting as detailed in Annex A.  The Registrar informed the SAB that the proposed amendment to the Membership of the SAB (Action 9, 15.03.17 refers) was being put to the July meeting of COIC for approval, after which recruitment could commence. | Annex A  **Action 2 (AR/CD)** | |
| **4.** | **BTAS 2016 Review- Learning Points**  The SAB discussed what it considered to be the key generic learning points arising from a judgment in the High Court relating to the decision of a BTAS Tribunal. Before doing so, it reminded itself that discussions should not in any way consider the case itself or the individuals involved, but focus exclusively on points that could apply to any future Tribunal.  The SAB noted that in the current training-round for pool members, it was being stressed that the strength of the panel lay in its collective membership, that all members of a panel were equally responsible for its decisions and reasoning, and that all should be fully aware of and content with the wording of any judgments etc., delivered during proceedings.  The SAB also noted that, unlike some other tribunal services, no legal advisors attended. The SAB inferred that this was because every BTAS Tribunal had two barristers and in some cases also a judicial chair hearing the cases. The SAB noted that it was clearly important therefore to ensure that the pool included representatives from as many areas of legal practice as possible, and that changes to the publicly funded bar had made it harder for BTAS to recruit and retain junior criminal barristers to the pool. One possible way of improving this situation would be to implement the recommendation within the 2012 Browne Review to commence payments to legally qualified members of the pool, which has not been implemented to date due to the BSB’s position regarding payments to the members of its Prosecution Panel. [See also the discussions in ‘Any Other Business’ below]. | Annex B | |
| **5.1** | **Disciplinary Pool Training – Induction and Refresher**  The SAB received the Registrar’s report on the induction and refresher training for new and existing panel members delivered to date. The SAB was pleased to note that, based on the quantitative feedback provided, the training seemed to be well received by all attending (lay, legally qualified, new and existing). In the small number of instances where one or more individuals had awarded lower marks, this tended to be on the grounds that (for example) they had already done similar training elsewhere, and that seemingly every comment that suggested the training was ‘too brief’ was effectively balanced by another suggesting it was ‘too detailed’, suggesting that overall it was about right.  In addition to the quantitative marks it was suggested that the Chair of the Disciplinary Tribunal Service should also review all the qualitative comments to identify any key themes. | Annexes Ci-ii  **Action 3 (AR/SS)** | |
| **5.2** | **Disciplinary Pool Training – New Disciplinary Tribunal Regulations**  The SAB noted that it had been confirmed that revised Disciplinary Tribunal Regulations were due to come into effect on 1 October 2017.  Having reviewed the extent of the revisions, the SAB were satisfied that a distance-learning approach would be the most appropriate way of ensuring all Panel Members were trained, rather than requiring attendance at a face-to-face event. It was agreed that a written ‘transition’ guide should be prepared to ensure familiarity and competence in the revisions, and that all panel members must be required to confirm they had read it.  Additionally BTAS should offer one evening event, to be attended by the Chair of the Tribunal Service and representatives from the BSB, which would enable panel members with any questions or confusion to address these in advance of the changeover. Attendance at this event is not mandatory. | Annex D  **Action 4 (AR)** | |
| **6.** | **BSB Review of the Standard of Proof Applied in Professional Misconduct Proceedings.**  The Director General of the BSB introduced and gave details of their consultation on this topic, on which the BSB was entirely open-minded.  The SAB reminded itself that it was an advisory board to COIC, and that when asked for advice they were very happy to give it. However, on this occasion it was noted that COIC had not asked for the SAB’s advice, and indeed that COIC was not proposing to submit any response to the consultation itself. The SAB agreed that in these circumstances it should confine itself to a general discussion – during which a range of views were expressed – and that it would not be appropriate for it to draft or submit any response to the consultation without COIC’s invitation to do so. The SAB awaits the outcome of the consultation with interest. | Annex E | |
| **7.** | **To consider the progress of the Sentencing Guidance Review**  The Registrar briefed the SAB about the outcome of the Working Group’s meeting on 26th June.   1. The Group had agreed that the priority was to make the information in the Guidance as accessible as possible. Due to the relatively low average number of times that panel members sat on Tribunals each year the goal should not be to create a document that will be convenient to those familiar with it, but rather one that is presented in such a way that the necessary information can be easily searched for and located within it. This would include the use of colour-coding; both to differentiate the various sections of the guidance, and between the various editions. The SAB agreed with this approach, and awaited sight of the revised version, which should be ‘road-tested’ by the Working Group before being introduced into use. 2. The Group had also identified a number of potential other changes, which were more significant in both their scope and implications. This included such issues as sentencing the totality of multiple charges, rather than each of the charges separately. The SAB agreed that such changes were likely to require careful consideration and possibly public consultation, and as such a paper should be produced setting out these changes and the reasoning behind them. This would be considered at a future meeting of the SAB, and a decision made as to which of them – if any – should be taken forward and by what means. | **Action 5 (AR)**  **Action 6 (AR)** | |
| **8.** | **New ICC Rules Update**  The SAB welcomed Francis Leeder’s update confirming progress and plans for the transition to the new ICC Rules with effect from 1 August 2017, and took the opportunity again of thanking Mr Leeder for his efforts with the ICC in view of the fact this would be his last meeting.  It was reported that efforts had been made to progress as many ICC referrals as possible under the old Rules to minimise disruption and delays when the new rules came into effect. This had resulted in a unexpectedly large peak of referrals from the Inns, but these would all be dealt with in advance of the change-over date.  The Director-General of the BSB raised the topic of collecting and reporting on the protected characteristics under the Equality Act of those appearing in hearings, and it was agreed that the Registrar would contact her to discuss this point more fully. | **Action 7 (AR/VD)** | |
| **9.** | **KPIs**  The SAB reviewed the KPI data and, with the exception of the issue detailed below, were satisfied and reassured by the information presented about BTAS’ performance during Q2 2017. It was agreed that future iterations of the KPI report would include the acceptable / unacceptable markers of performance, as agreed between the BSB and BTAS when renewing the service agreement for the delivery of Tribunals earlier this year.  The SAB expressed great concern over the failures in the tribunal recording equipment during Q2, especially following the failures in Q1. In terms of the risks for BTAS, the SAB agreed this was high impact and – based on regrettable but recent experience – could not be described as of low probability. Accordingly remedial action was imperative.  The Registrar briefed the SAB that he had met with AV providers who had recommended a series of action and upgrades, and he was awaiting detailed quotes. These would then be put to the COIC Trustees for approval as unbudgeted expenditure. | Annexes Fi & Fii  **Action 8 (AR)**  **Action 9 (AR)** | |
| **10.** | **Dates of Future Meetings**  The SAB noted the date of the next meeting was:  Wednesday 20 September 2017  It was flagged that the proposed December date (Thursday 7 December) clashed with the BSB Away Day, and as such no representatives of the BSB could be present. The SAB agreed that another date should be identified for this meeting. | **Action 10 (AR)** | |
| **11.** | **Any Other Business**  [Redacted] |  | |

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| No. | ACTION | MINUTE | OWNER | PROGRESS |
|  | A letter of thanks to be sent to Emir Feisal, | 1.d | AR/CD |  |
|  | Revisions to the membership of the SAB to be put to the July COIC for approval. | 3 | AR/CD |  |
|  | Chair of the Disciplinary Tribunal Service to review qualitative training feedback. | 5.1 | AR/SS |  |
|  | An evening event to be scheduled in preparation for the introduction of new Disciplinary Tribunal Regulations. | 5.2 | AR |  |
|  | Sentencing Guidance Group to complete proposed revisions to the Guidance and road-test them before their introduction. | 7.i | AR |  |
|  | Sentencing Guidance Group to detail proposed significant revisions to the Guidance for consideration by the SAB. | 7.ii | AR |  |
|  | Registrar and Director General to discuss recording equality and diversity data for ICC referrals. | 8 | AR/VD |  |
|  | KPIs to included ‘pass/fail’ indicators. | 9 | AR |  |
|  | Recording equipment shortcomings to be addressed. | 9 | AR |  |
|  | New date for the December 2017 meeting to be found. | 10 | AR |  |