



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Minutes

Strategic Advisory Board Meeting

Tuesday 19th June 2018, 14:00-16:00

The Tribunal Suite, 9 Gray's Inn Square

1.	Welcome and Apologies
a.	Present <i>Clare Dodgson</i> <i>Chair of SAB and Lay Representative</i> <i>Ian Clarke QC</i> <i>Chair, Inns' Conduct Committee</i> <i>Louise Clements</i> <i>Lay Panellist, Disciplinary Tribunal Pool</i> <i>Vanessa Davies</i> <i>Director General, Bar Standards Board</i> <i>Lara Fielden</i> <i>Lay Representative, Bar Standards Board</i> <i>Joan Martin</i> <i>Lay Member, Tribunal Appointments Body</i> <i>Stuart Sleeman</i> <i>Chair, Disciplinary Tribunal Service</i> <i>James Wakefield</i> <i>Director, COIC</i> <i>Robert Walton</i> <i>Legally Qualified Panellist, Disciplinary Tribunal Pool</i>
b.	Apologies <i>None</i>
c.	In attendance

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	<p><i>Margaret Hilson Administrator, BTAS</i></p> <p><i>Andy Russell Registrar, BTAS</i></p> <p><i>Natasha Williams Business Support Officer, BSB</i></p>	
d.	<p>Welcome</p> <p>The Chair welcomed new members to their first meeting of the SAB, and was delighted to see that all members had been able to attend. All attending briefly introduced themselves and their background.</p> <p>The Chair was pleased to note that the membership gave the SAB the benefit of considerable expertise in equality and diversity matters.</p> <p>The Chair reminded the SAB that it was a strategic and advisory body.</p>	
2.	<p>Minutes of last meeting</p> <p>The minutes of the meeting held on 20th March 2018 were approved and will be placed on the BTAS website.</p>	Annex A
3.	<p>Actions from the Last Meeting</p> <p>The SAB noted the update on actions arising from the minutes of the meeting held on 20th March 2018 as detailed in Annex A, and were satisfied that all were complete.</p>	Annex A
4.	<p>BTAS Pool Member Training 2017</p> <p>The SAB considered feedback from those Pool members first appointed in 2017 on the BTAS induction training they had been provided. This was in addition to feedback collected immediately after the training, and was so that the SAB might assess how useful the new Pool members had found their training once they had had the opportunity to ‘put it to the test’ in a hearing.</p> <p>The SAB was pleased to note that all responses, bar one, stated that the training was ‘effective’ or ‘highly effective’ in preparing them for serving on a panel. The one exception stated that they had found the training ‘adequate’, but since this individual had declined to provide any explanatory comments or suggested possible improvements, the SAB determined that this rating should simply be noted and no further action or discussion of it could meaningfully take place.</p> <p>It was noted that there was often a delay of some months between the induction</p>	Annex B

	<p>training of new members and their first being given a chance to put it into practice while serving on a hearing. It was noted that this was not ideal, but the SAB appreciated this was to some extent inevitable due to:</p> <ul style="list-style-type: none"> • The current low number of hearings taking place, reducing the opportunities for new members to sit. • The lead-in time for hearings, which are usually fixed several months in advance. This mean that even if a new pool member was contacted about a hearing by BTAS immediately after completing their training, it would be regarding a hearing several months in the future. • The need to ensure panels were made up of a mix of both new and experienced panel members. <p>The SAB also noted that no ‘roving trainers’ had been used during the scenario-based training, with feedback always provided in plenary discussions. It agreed that such a role should be introduced in future, as this provided the opportunity to observe, encourage or challenge the discussions taking place within individual groups.</p> <p>Finally, the SAB reconfirmed that, notwithstanding how valuable the experience might be, it was inappropriate for trainee pool members to be permitted to observe the private deliberations of a panel hearing a case.</p>	<p>Action 1: AR</p>
<p>5.</p>	<p>Annual Report to COIC</p> <p>The SAB noted the 2017 BTAS Annual Report, which incorporates the independent reports of the SAB, plus the Tribunal Appointments Body and the Inns’ Conduct Committee, to COIC. The SAB was reminded that the Annual Report had been approved by COIC at its meeting in May 2018, and subsequently published on the BTAS website.</p> <p>The SAB agreed that the report provided an excellent overview of BTAS’ work, and gave real insight into its activities to members of the Bar and the public. If possible, it was agreed that it might be interesting to look at data concerning the number of times the report’s webpage had been accessed, and from where, etc. The following topics were particularly discussed:</p> <ul style="list-style-type: none"> i. While the Report set out the low levels of hearings that had taken place in 2017, the Chair of the Tribunal service highlighted that BTAS had been 	<p>Annex C</p> <p>Action 2: AR</p>

	<p>receiving similarly low levels of referrals from the BSB during 2018 to date</p> <p>[Post Meeting Note: 17 cases were referred to BTAS by the BSB in the first 6 months of 2018, compared with 16 in the first 6 months of 2017]. It was agreed that it would be extremely useful to better understand and monitor this trend, and that information about the number and outcome (in terms of ‘referral to Tribunal’, ‘imposition of administrative sanction’, etc) of complaints being considered by the BSB’s Professional Conduct Committee could provide an indication of the overall and future trends in this area. The Director General of the BSB confirmed that up to date statistics covering these points would appear in the BSB’s own Annual Enforcement Report. However, this was not due to be published until after the next SAB meeting, and so the Director General undertook to see whether this information could be extracted from the report and put before the next SAB meeting for discussion on a confidential basis.</p> <p>ii. The data within the ICC Report indicated an increased proportion of cases being screened to go to a hearing Panel. The Chair of the ICC suggested that this may well be a result of the ‘new’ Inn’s Conduct Committee (all appointed on 1 August 2017) taking a more cautious approach while growing their familiarity and experience with the screening process. This was something that the ICC was itself already alive to, and the latest data seen by that Committee suggested that the proportion of cases sent to a Hearing Panel was now returning to previous levels. The Chair stressed that this cautious approach had no detrimental impact on individual students or applicants, as the final decision on referred cases were made by the members of the independent Hearing Panel.</p> <p>iii. The relative lack of diversity amongst the members of the BTAS Disciplinary Pool set out in the report was disappointing, but it was reiterated that (a) it was only possible to select individuals from amongst the cohort that applied;(b) all shortlisting had been done ‘blind’ without any information about candidates’ names, identity or protected characteristics , and (c) that all those involved in the recruitment process has undergone training in diversity and unconscious bias.</p> <p>The SAB noted that the Criminal Bar was believed to be more diverse, but that</p>	<p>Action 3: VD</p>
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	<p>at present many members of the Criminal Bar simply could not afford to undertake unpaid work such as this. However, the proposal for all barrister and QC members of the BTAS Pool to be offered payment with effect from March 2019 was agreed to potentially transform this position, and lead to increased numbers of Criminal Barristers applying to join the Pool.</p>	
6.	<p>Key Performance Indicators</p> <p>The SAB noted the latest BTAS KPI data, and particularly noted:</p> <ul style="list-style-type: none"> a) that it would be misleading to assume that every upheld appeal against Tribunal decisions must be viewed with alarm. It was of the nature of all Tribunals that decisions would occasionally be corrected or improved by a higher authority. It would be of greater concern should no appeals ever be submitted (as this is suggestive of excessive leniency), or if the Tribunals were repeatedly being criticised for making the same mistake(s). b) The regular June peak of ICC cases was again evident, and this was a product of the timing for Bar Course entry. The Director of COIC highlighted that in the medium to longer term it was proposed to have multiple Bar Course entry points, which would help to more evenly distribute ICC cases throughout the year. 	Annexes D & E
7.	<p>BSB Consultation – Modernising Regulatory Decision Making</p> <p>The SAB noted that a BSB consultation had taken place on proposals to change how it deals with the information it receives as the regulator and to revise its decision-making structures in relation to professional conduct issues.</p> <p>The Director General confirmed that the BSB has received six responses to the Consultation (four from the Inns, one from the Bar Council and one from the Office of Legal Complaints), which would be considered by the Board at their meeting in October 2018.</p> <p>The proposed changes would move the BSB closer to the practice of other professional regulators. The SAB particularly noted that, should the proposed changes come into effect:</p> <ul style="list-style-type: none"> i. BSB decisions about conduct matters would always be made by a body with a 	Annex F

	<p>lay majority;</p> <p>ii. A change in terminology would see the BSB move from handling ‘complaints’ to ‘receiving information’ about barristers.</p>	
8.	<p>Dates of future meetings</p> <p>Thursday 20th September 2018 Tuesday 11th December 2018</p> <p>All meetings commence at 14.00.</p>	
9.	<p>Any Other Business</p> <p>The role of Clerks in the Tribunal process was queried. While their presence is required by the Disciplinary Tribunal Regulations[DTRs], the introduction of the requirement for published judgments based on wording decided on and delivered by the Tribunal (as opposed to a subsequent summary report produced by the Chair) in the November 2017 DTRs had removed a, if not <i>the</i>, key purpose of their role.</p> <p>If their role was now more akin to Court Ushers, this might better be performed by non-legally qualified staff. Alternatively, their role could be developed to provide expert advice to members of the Panel.</p> <p>It was agreed that the BTAS Registrar would consider this issue further and, when appropriate, present a paper to the SAB setting out the pros and cons of any change for consideration.</p>	Action 4: AR

No.	ACTION	MINUTE	OWNER	PROGRESS
1.	‘Roving Trainers’ to be used during all future scenario-based Pool Member training.	4	AR	
2.	Analytics for BTAS Annual Report to be investigated.	5	AR	
3.	Data on complaints handled by the BSB to be passed to BTAS if possible, ahead of its inclusion in the BSB Annual Enforcement Report	5.i	VD	

No.	ACTION	MINUTE	OWNER	PROGRESS
4.	The role of Clerks to be considered and recommendations made to a future meeting of the SAB.	9.	AR	