



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Minutes

Strategic Advisory Board Meeting

Thursday 20th September 2018, 14:00-16:00

The Rose Heilbron Room, Gray's Inn Square

1.	Welcome and Apologies
a.	Present <i>Clare Dodgson</i> <i>Chair of SAB and Lay Representative</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>Ian Clarke QC</i> <i>Chair, Inns' Conduct Committee</i>
c.	In attendance <i>Emiko Etete</i> <i>Corporate Support Officer, BSB</i>

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	<p><i>Margaret Hilson Administrator, BTAS</i></p> <p><i>Andy Russell Registrar, BTAS</i></p>	
d.	<p>Welcome</p> <p>The Chair welcomed Emiko Etete to his first meeting of the SAB.</p>	
2.	<p>Minutes of the Last meeting</p>	
a.	<p>Confirmation of Minutes</p> <p>The minutes of the meeting held on 19th June 2018 were approved and will be placed on the BTAS website, subject to the following amendments being made:</p> <ul style="list-style-type: none"> i) Ian Clarke QC's name being added to the list of those present; ii) It being made clear that the 'BSB Annual Report' mentioned in Minute 5.i and Action 3 is the Annual <i>Enforcement</i> Report. 	<p>Annex A</p> <p>Action 1: AR</p>
b.	<p>Actions Arising</p> <p>The SAB noted the update on actions arising from the minutes of the meeting held on 19th June 2018 as detailed in Annex A, and were satisfied that all were complete or dealt with elsewhere on the agenda.</p>	<p>Annex A</p>
3.	<p>The Role of Clerks</p> <p>The SAB considered a paper from the Registrar detailing the current function of clerks in the Disciplinary Tribunal process, and whether any change to their role or eligibility criteria might be appropriate (Minute 9, 19.06.18 refers).</p> <p>The SAB was content to accept the Registrar's recommendation that no change to the role of clerks was necessary. While their responsibilities regarding a Tribunal had changed significantly – in that they are no longer required to draft the 'Chair's Report' – from a purely practical point of view the existing arrangement helped ensure the smooth delivery of hearings at a reasonable cost, and provided panels with another 'pair of eyes' to ensure the applicable rules and regulations were adhered to. Additionally, but no less importantly, the role offered valuable experience to those performing it, and gave them an insight into, and engagement with, the disciplinary process as a whole. These latter points were agreed to be</p>	<p>Annex B</p> <p>Action 2: AR</p>

	<p>particularly relevant to newly qualified barristers, and consideration should be given to effectively targeting such individuals when BTAS next recruited new clerks.</p> <p>Increasing the clerks' responsibilities to a level equivalent to the role of 'Legal Advisor' as used at other Tribunals was also considered, but felt to be unnecessary (given the current legal majority on every panel) and likely to be very expensive. However, should the membership of panels change to allow for a lay majority or a lay Chair, then this would have to be reconsidered. The SAB agreed that the subject of lay/legally qualified majorities on panels was an important one, and one that it would have to carefully consider should this be put forward at some future date.</p>	
<p>4.</p>	<p>Future Bar Training</p> <p>The SAB noted an oral update from the COIC Director and the Director General of the BSB regarding the BSB's Future Bar Training Reforms, and in particular the potential for changes to ICC Rules and processes.</p> <p>The Director General outlined that, following several years of work (including public consultations), their 'Future Bar Training' programme was approaching completion. At its simplest, there would no longer be one compulsory route to qualification as a barrister, and instead various pathways would be available for individuals to choose from, with all pathways ultimately having to demonstrate that they met all the requirements of the BSB's Professional Statement, which describes the knowledge, skills and attributes that all barristers should have on 'day one' of practice. The SAB reflected at this point that the Professional Statement could be embedded within BTAS' future Pool member training programme, setting out as it did the 'floor' for competent barristers.</p> <p>In terms of what this meant for the ICC, in practical terms the Bar Training Rules (BTRs) were being updated and (at least in part) revised with a greater emphasis on 'guidance'. It seems likely that this might require some consequential revisions to the ICC Rules, but no substantive changes were envisaged, save the possible insertion of the requirement for DBS checks into the process. It was noted that the Chair of the ICC had already embarked on updating the ICC Rules to address several other issues, however, as the new BTRs were not expected to be published before February 2019 (and then only come into effect at the start of the 2020/2021 academic year), it might be better for any necessary interim changes to be put to</p>	<p>Action 3: AR</p>

	the BSB for approval at this stage, rather than waiting and attempting to make the BTR-related changes at the same time.	
5.	<p>Key Performance Indicators</p> <p>The SAB noted the latest BTAS KPI data, and the accompanying executive summary. It did not feel that any indicators required further comment or discussion and thanked the Registrar for presenting the information.</p>	Annexes C & D
6.	<p>Tribunal Referral Rates</p> <p>The SAB received an advance copy of the BSB’s Annual Enforcement Report in confidence, and all agreed that the contents must not be discussed before 28 September 2018. [Post-meeting note: The Report has now been published and is on the BSB website]. The SAB thanked the Director General for the BSB’s willingness to make this information available to them at this stage, given that the data within it was likely to be of considerable relevance to the discussions on this agenda item.</p> <p>The SAB noted that the total number of <i>complaints</i> handled by the BSB in 2017/18 had increased by 29% compared with figure for 2016/17, however the proportion of those complaints <i>referred</i> to disciplinary action had reduced over the same period (from 17% to 10%). This was thought to be indicative of the greater use of administrative sanctions, compounded by one individual barrister facing an exceptionally high number of charges in 2016/17 which in effect distorted the figures for that period.</p> <p>In terms of future trends it was highlighted that:</p> <ul style="list-style-type: none"> • complaints about misleading the court and rudeness and misbehaviour had increased significantly; • the number of complaints relating to barristers’ use of social media and the internet was increasing, and that these often raised issues about the boundary between a barrister’s professional life and personal life. <p>It was agreed that all members of the SAB would take the opportunity to more thoroughly review and reflect on the BSB’s Report, and then pass on any issues or concerns they identified to the Registrar for possible discussion at a future meeting. The SAB reminded itself that, given the small numbers of individuals involved</p>	<p>Action 4:</p> <p>All</p>

	(particularly in terms of complaints referred to BTAS), care should be taken to not read too much into data which might simply be a statistical anomaly.	
7.	<p>Dates of future meetings</p> <p>The Committee's next meeting will be:</p> <p>Tuesday 11th December 2018, commencing at 14.00.</p> <p>The Committee then considered the frequency of its future meetings, and agreed that current and likely future business meant it seemed most appropriate that it met three times a year (rather than four at present). The SAB agreed to introduce this triannual meeting pattern from 2019 onwards. [Post-meeting note: Having reviewed the business of previous meetings it is suggested that the September meeting be discontinued, as this follows the summer vacation when BTAS is at its quietest. This would still leave one meeting per term. These have previously been held in March, June and (early) December and it is proposed that this pattern continues].</p>	<p>Action 5: AR</p>
8.	<p>Any Other Business</p> <p>BTAS currently has insufficient expertise or resources to produce comprehensive relevant 'case law updates' for the members of the Disciplinary Pool. The Director General of the BSB noted that the BSB already produces newsletters for the members of its Prosecution Panel, which includes the latest case law developments. If BTAS were to be sent copies of these, it might therefore be possible for BTAS to extract factual information of common interest and disseminate this to its Pool members. The potential advantages and disadvantages (including on the public's perception of BTAS' independence) of this should be considered further and brought back to the SAB for discussion.</p>	<p>Action 6: AR</p>

No.	ACTION	MINUTE	OWNER	PROGRESS
1.	Amend the minutes of the meeting held on 19 th June 2018 as necessary before posting on the BTAS website.	2i	AR	
2.	Registrar / TAB to consider how best to attract newly qualified barristers to apply to be Clerks.	3	AR	
3.	Future Pool Member training to include reference to the BSB's Professional Statement.	4	AR	
4.	All SAB members to review the BSB's Enforcement Report and highlight topics that would potentially benefit from further discussion to the Registrar.	6	All	
5.	Triannual meeting pattern for the SAB to be established from 2019 onwards.	7	AR	
6.	Options for producing case law summaries for Pool members to be considered at a future meeting.	8	AR	