



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Minutes

Strategic Advisory Board Meeting

14th December, 14:00-**16:00**, **The Rose Heilbron Room, Gray's Inn**

1.	Welcome and Apologies
a.	<p>Present</p> <p><i>Clare Dodgson</i> Chair of SAB and Lay Representative</p> <p><i>Joan Martin</i></p> <p><i>James Wakefield</i> Director, COIC</p> <p><i>Emir Feisal</i> Member, Inns' Conduct Committee</p> <p><i>Nicola Sawford</i> Lay Representative, Bar Standards Board</p> <p><i>Stuart Sleeman</i> Chair, Disciplinary Tribunal Service</p> <p><i>Sheila Hollingworth</i> Panellist, Disciplinary Tribunal Pool</p> <p><i>Vanessa Davies</i> Director General, Bar Standards Board</p>
b.	<p>Apologies and conflicts of interest</p> <p><i>Heather Rogers</i> (Apologies) Interim Chair, Inns' Conduct Committee</p>
c.	<p>In attendance</p> <p><i>Francis Leeder</i> Administrator, BTAS</p> <p><i>Andy Russell</i> Registrar, BTAS</p> <p><i>Dan Burraway</i> Corporate Support and Contract Manager, BSB</p>

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9 Gray's Inn Square,
London
WC1R 5JD

T: 020 3432 7350
E: info@tbtas.org.uk

The Council of the Inns of Court. Limited by Guarantee

Company Number: 8804708

Charity Number: 1155640

Registered Office:

9 Gray's Inn Square, London WC1R 5JD

d.	The SAB welcomed Dan Burraway following the departure of Steve Clifford of the BSB.	
e.	It was noted the disabled toilet was locked and keys would need to be requested from the porter's lodge or the bridge bar . Ready access to this facility was essential if the venue was to be used again. It was agreed that this was unsatisfactory and should be drawn to the attention of Gray's Inn . Action 1	
2.	Minutes of last meeting The minutes of the meeting held on 28 September 2016 were approved and will be placed on the BTAS website.	Annex A
3.	Actions and Matters Arising from Last Meeting	
a.	Actions from last meeting The SAB noted the update on actions from the last meeting as detailed in Annex B, and that all were either complete or referred to elsewhere on the agenda.	Annex B
b.	<p>Matters Arising</p> <p>New Inn's Conduct Committee (ICC) Rules</p> <p>The Director General of the BSB announced that an exemption notice had been received from the Legal Services Board (LSB) meaning that the changes to the ICC rules were now solely a matter for the BSB.</p> <p>The SAB noted that the new ICC rules had been amended to remove those provisions which had previously been regarded as contentious, namely, the standard and burden of proof which would apply in ICC cases and the public or private status of hearings.</p> <p>The SAB were pleased that in practical terms the amended rules would allow for the disbanding of the current ICC membership and that BTAS would be able to draw panellists from the wider disciplinary pool to hear ICC cases.</p> <p>The Director General of the BSB informed the SAB that the provisions which had been removed from the current version of the rules could take some time to resolve since they related to discussions, also regarding the nature of the Disciplinary Tribunal Regulations (DTRs), which were ongoing. The SAB noted that this would leave the new ICC rules silent on important matters which still needed to be addressed.</p>	

	<p>It was agreed that the Interim Chair of the ICC would be informed of the exemption order; the amended rules would be submitted for COIC approval; the promulgation procedures would be confirmed; the amended ICC rules would be circulated to members of the SAB along with the upcoming minutes and a record would be kept of which provisions were still outstanding and how the progress of these provisions could be monitored.</p> <p style="text-align: right;">Actions 2-6</p>	
4.	<p>Key Developments in Legal Services Regulation</p> <p>Following preliminary discussions at the previous SAB (see Minute 6.1), the Director General of the BSB presented a summary of the BSB's views concerning the vision statement published by the LSB regarding the future of Legal Services Regulation in the United Kingdom. The presentation focused on the 6 proposals which had been outlined. The SAB noted this introduction was not formal BSB policy which could only be confirmed at a future BSB meeting.</p> <p>The BSB's formal position on most of the issues raised in the LSB paper can be found in its current Strategic Plan.</p> <p>It was noted that further detail of the future of Legal Services Regulation might be gleaned from the LSB's draft business plan which is due to be published shortly.</p> <p>The SAB agreed to consider the LSB business plan at the next meeting in March.</p> <p style="text-align: right;">Action: 7</p>	
5.	<p>Sentencing Guidance Review</p> <p>The BTAS Administrator presented the second phase of the review concerning the levels of sanctions imposed by Tribunal Panels. At the outset, the SAB commended him for a thorough and high quality piece of work.</p> <p>The SAB reminded itself that all proposed revisions were intended to be consistent with the current Guidance, which had been subject to public consultation. Thus, while the format could change, and new guidance introduced that reflected the current content, no change to the severity of sanctions imposed was considered</p>	Annexes Ci-vi

appropriate.

In broad terms the SAB welcomed the proposed revisions drafted by the BTAS Administrator, subject to (i) any typos being corrected, and (ii) the draft of Annex Cii *Failure to comply with an Order of a BTAS Tribunal, the Legal Ombudsman or the Professional Conduct Committee* and Annex Cvi *Breach of Public Access Rules* **being amended to include provision for disbarment (in addition to ‘long suspension’) in the most serious** of cases.

While reviewing the amendments, the SAB also agreed that the entire document should be reviewed to ensure it is legally correct (for example, also in Cii, reference is made to ‘sentences’ imposed by the BSB’s PCC, when these are instead ‘administrative sanctions’. It also agreed it would be helpful to define ‘promptly’ in the existing text as meaning ‘as soon as practically possible’.

Ultimately, the SAB decided that, before any changes were made to the current Guidance, the format and presentation of the Guidance should be thoroughly considered to ensure it is as useful and accessible as possible during a Tribunal. **Such consideration would be best done by a small working group of ‘users’**, specifically Tribunal Panel members but potentially with the input of those involved with similar work in other institutions.

Action: 8

It was agreed that it should be suggested to the members of the working group that the guidance should not seek to be overly prescriptive, but set out the (currently established) range of sanctions and allow the Panel to determine the appropriate sentence based on the aggravating and mitigating factors. Thus, the working group might decide that it was inappropriate to specify sentences for ‘*serious sexual misconduct*’ since all such misconduct was by definition serious. Instead the document could reflect its title and simply **provide ‘guidance’ on the range of tariffs** that might be applied by any given Panel.

It was also agreed that it would be **important for the ‘effect on the victim’** to be considered by each Panel when determining sentence.

Finally, while noting that this was a matter for the DTRs rather than the *Sentencing Guidance*, members of the SAB expressed some frustration that criminal convictions for the most serious of cases, or those involving dishonesty, required a hearing to take place at all, when the Tribunal was bound to accept the conviction as fact and hence an outcome of disbarment was inevitable (and the

holding of a Tribunal simply delayed this taking place).

6. Panel Member Recruitment – Insights and Lessons

The BTAS registrar presented the following figures to the SAB:

	Total applications received	Number invited to interview	Interviews Held*	Candidates selected	Reserves
Barrister Members	73	19	16	10	4
Lay Members	451	25	24	9	3
QC Members	22	12	12	8	3
Clerks	16	11	10	7	2
Total	562	67	62	34	12

After a record of thanks was made to the BTAS Secretariat for their help in administering interviews and the other aspects of the recruitment procedure, the Tribunal Appointments Body Lay Representative offered insights and lessons learnt in the current round of panellist recruitment:

1/ The TAB will stipulate in the job advertisement during the next recruitment cycle that applicants from outside England and Wales will be excluded which would be consistent with the criteria applied to legally qualified applicants..

2/ **The TAB Appointment’s Protocol would be reviewed** and the definition of ‘**layperson**’ amended to reflect that used in the Legal Services Act. Furthermore, BTAS would seek urgent advice on whether current or retired solicitors could act as lay persons on Disciplinary panel. Action: 9

3/ The application website development company, Gatenby Sanderson, would be asked to look at further ways in which the site could be made as user-friendly as possible.

4/ Integrity and Impartiality would be removed as specific interview questions due to the difficulties in meaningfully assessing this. These qualities were essential attributes for all shortlisted candidates. Additionally a question relating to coordination of proceedings would be added to the questions asked of potential Clerks since this was of great relevance to their role in tribunals.

Annex
D

	<p>5/ A new set of questions would be devised in future and it has been decided that both QCs and barristers could be scored against the same criteria and questions.</p> <p>6/ Interviewees would be asked in future about their commitment towards appraisal to ensure that panel members would be co-operative and open to the process.</p> <p>7/ Since the diversity of the final appointees was not reflective of the diversity of all shortlisted candidates, the TAB would be looking further at E&D issues in future recruitment cycles. In relation to this it was agreed to approach the QC Appointments Panel and the Judicial Appointments Committee for information.</p>	
7.	<p>Panel Member Training</p> <p>The SAB reviewed the plans drawn up to begin training the new panellists whilst the new Disciplinary Tribunal Regulations were still pending final approval.</p> <p>It was agreed that training in the following areas could be progressed:</p> <ul style="list-style-type: none"> -Introduction to BTAS -Key Skills for Panel Members and Clerks -Equality and Diversity Awareness -Dealing with vulnerable people <p>Since this allocation of topics could push any initial training session beyond a half day, it was agreed that the structure of the training scheduling would be reviewed.</p> <p style="text-align: right;">Action: 10</p>	Annex E
8.	<p>BTAS Service Agreement</p> <p>The SAB noted that the BTAS Registrar had met with members of the BSB's Contract Management team to finalise the new service agreement. It was noted that this should be signed-off before the end of December.</p>	
9.	<p>KPIs</p> <p>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.</p>	Annexes Fi-ii

10.	<p>Clerks Appraisal Framework</p> <p>The SAB noted that Clerks appraisal framework had been drawn up and rolled out but at present there was insufficient information to provide any meaningful feedback.</p> <p>The framework would be reported back on when there was sufficient data.</p>	
11.	<p>Dates of Future Meetings</p> <ul style="list-style-type: none">- Wednesday 15 March 2017 at 14:00-TBC	

No.	ACTION	MINUTE	OWNER	PROGRESS
1.	Alert Gray's Inn to venue accessibility issues.	1e	FL	
2.	Interim ICC Chair to be informed of LSB exemption order	3	FL	
3.	Amended ICC rules to be submitted to COIC for approval	3	AR	
4.	Review promulgation procedures for new ICC rules	3	AR	
5.	Circulate amended ICC Rules along with minutes of the December 2016 Meeting	3	FL	
6.	A record would be kept of which provisions were still outstanding and how the progress of these provisions could be monitored.	3	FL	
7.	Circulate LSB Business Plan in advance of next SAB	4	FL	
8.	Recruit Sentencing guidance Working Group	5	AR/FL	
9.	BTAS to seek urgent advice on retired solicitors sitting as lay members on panels	6	AR	
10.	Review structuring of training schedule	7	AR	