

The Council of the Inns of Court

**The Bar Tribunals & Adjudication Service**

**MINUTES OF THE STRATEGIC ADVISORY BOARD MEETING**

**Wednesday 9th July 2014**

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

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| 1  1.1  1.2 | ***Present:***  *Clare Dodgson Chair of SAB and Lay Representative*  *Malcolm Cohen Lay Board Member, Bar Standards Board*  *Vanessa Davies Director, Bar Standards Board*  *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*  *Stuart Sleeman Chair, Disciplinary Tribunal Service*  ***Apologies:***  *None*  ***In Attendance:***  *Hayley Addison Administrator, BTAS*  *Chandra Connaghan Contract Management Officer, BSB*  *Andy Russell Registrar, BTAS*  *James Wakefield Director, COIC*  The Board resolved that a vote of thanks be recorded for Wendy Harris, the Interim BTAS Registrar, for her considerable efforts and the success she achieved in establishing BTAS’s new processes and policies.  The Board noted with concern that Stuart Sleeman’s appointment as a Deputy Circuit Judge had not been renewed and so would expire at the end of August this year. The potential impact (if any) this would have on his four year appointment as Chair of the Disciplinary Tribunal Service (which commenced on 1 April 2014) was still being considered. |  |
| 2  2.1  2.2 | **Minutes of the Last Meeting**  The minutes of the meeting held on 10th April 2014 were approved, subject to the following amendment:  2.IV the text “*(including a chair)”* should be deleted so it reads:  *At each SAB meeting there must be minimum of three SAB members, and out of the three, one must be a lay member.*  The Registrar reminded the Board that, now they had been formally approved, the Minutes of the April meeting (with the above amendment) would be placed on the BTAS website. **(Action: AR)** | Annex A |
| 3  3.1  3.2  3.3 | **Actions from the Last Meeting**  SAB member profiles: The Registrar confirmed that these were now available on the BTAS website.  Directions Judges hearing substantive matters: While the Board noted that the general approach elsewhere was towards prioritising continuity (with the same individual(s) considering cases from start to finish) it was agreed that any discussion on this must be part of a wider case management review, to be initiated by the Registrar. (**Action: AR)**  Organisational charts: The BTAS and BSB charts were noted for information by the Board. It was agreed that the BTAS Chart should be amended to better reflect the SAB’s Terms of Reference. (**Action: AR)** | Annexes Bi & Bii |
| 4  4.1  4.2  (a)  (b) | **Matters Arising from the Minutes**  Standard of Proof: It was agreed to carry this forward to the Board’s next meeting, by which time the BSB’s Board will have met and the position would be clearer.  BTAS Newsletter:  The Board noted that no ideas had been submitted regarding the content of future BTAS newsletters, and agreed to continue to give this thought.  The Board supported outline proposals from the Registrar to move away from the current lengthy written article format towards a more interactive email newsletter, with (where necessary) further information accessible via click-through links in shorter ‘news’ summaries. E-newsletters could also be used to circulate links for online training, and encourage feedback and discussions, for example. The Board suggested that a study be done of newsletters produced by other regulators to identify good practice, and cautioned that to be successful any e-newsletter had be very clear regarding the audience it was targeting. |  |
| 5  5.1  5.2  5.3 | **Key Performance Indicators**  The Board received the Q2 (Apr – Jun) BTAS KPI Report and was pleased to note Chandra Connaghan’s confirmation that BTAS was currently fully meeting the KPIs. It was agreed that in future reports the KPIs be clearly linked to the indicators listed in the Service Agreement between BTAS and the BSB. **(Action: AR)**  The Registrar’s proposed new layout for reporting on some of the current KPIs was welcomed, and it was agreed that this be used in future **(Action: AR).**  The Board agreed that, whatever the layout, the current KPIs gave operational, rather than strategic, performance information and that this limited its ability to act as BTAS’s *Strategic* Advisory Board. However, the current KPIs report still was of value as a baseline and was in any case a requirement under the terms of the Service Agreement. The discussion moved on to consider how it could be augmented and further developed rather than replaced.  The guiding principle for this was to enable SAB to understand and comment on how satisfactory the service that BTAS provides is. Rather than details on specific cases, KPIs could be introduced on:   1. Number/proportion of cases that were adjourned or part-heard, with an accompanying report to provide explanations. 2. Number/proportion of hearings being completed in 6,9,12 months etc, with explanatory text on the outliers. 3. Number/proportion of hearings with charge or plea changes, or those discontinued for any reason.   It was agreed that the Registrar would start to develop alternative KPIS to provide the SAB with more meaningful information at a strategic level, including exception reports and trends over time. Whatever is developed should include an executive summary of text, highlighting the key points. The Registrar’s review should include consideration of the type of performance measures by other regulatory bodies as potentially revealing good practice. Malcolm Cohen and Sheila Hollingworth both offered their assistance before the next meeting to assist with this. (**Action: AR, MC, SH).** | Annex C  Annex D |
| 6 | **COIC Entity Update**  The Director of COIC confirmed that with effect from 1 July 2014 the Council of the Inns of Court was operating as a charity. This would make little or no difference in terms of policies and practices from an external point of view.  The Chair congratulated the Director on behalf of the Board, and acknowledged the vast amount of work that he had successfully completed to achieve this. |  |
| 7 | **Inns Conduct Committee Review Update**  The Registrar confirmed that he was finalising plans that would see the ICC Rules rewritten by the end of 2014, after which they would be passed for approval to the BSB so that they could be implemented with effect from 1 September 2014.  The Board was content with this proposal, but emphasised that while there may be some commonality between the new ICC and existing Disciplinary Tribunal rules, there were also fundamental differences that must be kept in mind throughout - not least that those subject to ICC rules did not work with the public, whereas those to whom the DT rules applied did.  The Registrar agreed to send the BSB Director a draft of the timetable for the review so that she could consider the timings of the approval process. (**Action: AR)**  The Chair noted that, in due course, details of ICC performance and issues should be put before the SAB in the same way as for the Disciplinary Tribunals, in accordance with its Terms of Reference.  Malcolm Cohen put on record that, as a member of the BSB’s Board, he would in due course be required to approve the new ICC Rules, and would therefore be potentially conflicted should he offer any comment on them as a member of SAB. It was accordingly agreed that he would play no part in any future discussions on revisions to the ICC Rules but simply observe them. (**Action: MC**) |  |
| 8  8.1  8.2  8.3 | **Performance and Appraisal Process**  The Registrar confirmed that COIC had recently approved an amendment to the BTAS *Performance and Appraisal* policy. The effect of this was to revise the requirement for an appraisal from within 12-15 months following appointment, to being as soon as practicable after 12 months following appointment. This was to ensure the policy was achievable and that there could be no concerns about the eligibility of Panel members and clerks to act.  The Board noted that the recent amendment should be considered an interim measure, and that COIC had requested the Board consider a wider review of the policy as a whole.  The Board agreed that any appraisal policy had to be both rigorous and proportionate. A key consideration in this was the frequency with which panel members and clerks acted, which in turn is a consequence not only of the number of hearings taking place each year, but the size of the disciplinary pool from which panellists are selected. Clearly it was unlikely to be very appropriate or meaningful to appraise a tribunal panellist if they had only been involved in a very small number of hearings, certainly without taking this lack of experience fully into account. This point was even more the case with regard to ICC Panellists, where hearings were generally brief and so experience took longer to acquire.    The Board noted that not only were the timescales of the previous policy unachievable, its operational delivery (with appraisals held immediately following a hearing at which the appraisee had been observed) was potentially undesirable as it left no opportunity for reflection. It accordingly agreed to give the Registrar a mandate to review the policy, to ensure that it is reliable, valid and credible. This review should include consideration of data on the frequency of panellist activity, with any revised policy allowing for (i) review of past performance, (ii) identification of any learning and development needed, and (iii) comments about the future. Emir Feisal and Sheila Hollingworth offered to assist the Registrar in this review by acting as sounding-boards and sharing any relevant documentation they had access to from elsewhere. (**Action: AR, EF, SH**)  The Board also noted that changes to the size of the current disciplinary pool could not be contemplated until accurate monthly/quarterly forecasts on future hearings a rolling calendar year ahead were being provided by the BSB to BTAS. (**Action: CC)**    The Chair of the Disciplinary Tribunal Service outlined his proposals for conducting appraisals of Judicial Chairs of Hearing Panels. This took the form of meeting with them individually outside of the Hearing process to discuss 360° feedback they had received and recent judgements they had delivered.  After some discussion the Board agreed that it was not practical to have an element of direct observation as part of the Judicial Chairs appraisal, as unless the Chair of the DTS was an ordinary member of the Panel he could not be present during their deliberations, but conversely if he was this would have the potential to alter the dynamic of the Hearing and the performance of the Judicial Chair.  It was agreed that the 360° feedback would be vital, and that consideration should be given to anonymising these to encourage full and frank completion. Similarly, Judicial Chairs must not ask Panel Members who they were themselves appraising for feedback on their own performance.  The Board agreed to proceed on this basis without delay, and would then review its success after the first round has been completed this year. (**Action AR, SS)** | Annex E  Annex F |
| 9 | **Dates of Future Meetings**  The Board agreed that its final quarterly meeting in 2014 should take place in early December, and the Registrar should confirm this date and identify provisional dates for 2015 as soon as possible. (**Action: AR)** |  |
| 10 | **Any Other Business**  None |  |