



# The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

## Minutes

### Strategic Advisory Board Meeting

Monday 21 September 2020, 14:00-16:00

Via Zoom

	ITEM	PAPER
1.	<p><b>Welcome</b></p> <p>The new SAB Chair welcomed everyone to this his first meeting. The Chair thanked members for meeting him individually.</p> <p><b>Present</b></p> <ul style="list-style-type: none"><li>• Antony Townsend (AT) – Chair of SAB</li><li>• Lara Fielden (LF) - Lay Representative, Bar Standards Board</li><li>• Saima Hanif (SH) – Legally Qualified DT Panellist</li><li>• Joan Martin (JM) - Lay Member, Tribunal Appointments Body</li><li>• Mark Neale (MN) – BSB Director General</li><li>• Paul Robb (PR)- Lay DT Panellist</li></ul> <p><b>In Attendance</b></p> <ul style="list-style-type: none"><li>• Margaret Hilson (MH) – BTAS Administrator</li><li>• James Wakefield (JW) – Registrar &amp; COIC Director</li></ul> <p><b>Apologies</b></p> <ul style="list-style-type: none"><li>• HH Judge Jonathon Carroll (JC) – Chair of the Disciplinary Tribunal Service</li></ul>	

#### The Bar Tribunals & Adjudication Service

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	<ul style="list-style-type: none"> <li>Ian Clarke QC (IC) – Chair of the Inns’ Conduct Committee</li> </ul>	
2.	<p><b>Minutes of the Last Meeting</b></p> <p>i. <b>To approve the minutes of the meeting held on 22 May 2020.</b></p> <p>The minutes were approved.</p> <p>ii. <b>To note progress with the actions arising from the minutes.</b></p> <p>The Registrar reported that all actions have been completed save for analysing and publishing the recruitment E&amp;D data. Again, this was because the team had been busy dealing with the impact of COVID-19.</p> <p><b>ACTION:</b> The Registrar is to complete the E&amp;D panellist recruitment analysis and report to the December meeting.</p>	Annex A
3.	<p><b>Terms of Reference</b></p> <p><b>To review the SAB’s Terms of Reference.</b></p> <p>The Terms of Reference were approved subject to:</p> <p><b>ACTION:</b> The Registrar to is to amend 5.1 to read: ‘The Strategic Advisory Board shall meet, at a minimum, <del>quarterly</del> <u>in its first three times a year</u> and will report annually to the COIC Board of Trustees.’ <b>Done at 22 September 2020.</b></p>	Annex B
4.	<p><b>Chair’s First Impressions</b></p> <p><b>To review and discuss the Chair’s note (compiled following meetings with SAB members).</b></p> <p>The Chair’s note was approved. It was agreed that a ‘whole system’ approach was essential so that the effectiveness of BTAS can be reviewed in the context of all parts of the process including BSB parts. It is only with an understanding of the whole processes that (for example) the causes of delay or the efficacy of case management can be understood. Also, there are particular issues, such as the allocation of tribunals to</p>	Annex C

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	<p>three or five person panels, that have to be considered in the context of the whole system.</p> <p>The Chair reported that on Wednesday 23 September he and JW were to meet with the Chief Executive of the LSB.</p> <p>MN reported that the BSB are in the process of reviewing the barristers' code of conduct. JW reported that the BSB had asked for a BTAS panellist to sit on the review working group – this has been arranged. Also, the BSB team are keeping the Sanctions Guidance Review Group up-to-date on the development of the code.</p>	
5.	<p><b>Agenda Planning</b></p> <p><b>To review and agree the main agenda items for forthcoming meetings.</b></p> <p>The main agenda items for forthcoming meetings were agreed as per Annex D.</p>	Annex D
6.	<p><b>BTAS Publication Policy</b></p> <p><b>To agree changes to the BTAS Publications policy.</b></p> <p><b>The BSB Publication Policy is annexed for reference.</b></p> <p>Revisions to the BTAS Publication Policy were agreed as per Annex E, subject to:</p> <ul style="list-style-type: none"> <li>i. (1.3) BTAS does not monitor the completion of sanctions (for example a requirement to undertake training). This would be for the BSB to do as they hold the Barrister's record. <b>ACTION:</b> The Registrar to ask the BSB whether they monitor and publish the completion of sanctions, and if not, whether they have plans to do so and report back to the next SAB.</li> <li>ii. (3.2) <b>ACTION:</b> The Registrar agreed to clarify the meaning of the second sentence of paragraph 3.2 (which relates to publishing information regarding a hearing when all charges have been dismissed) and, if necessary, suggest</li> </ul>	Annex E Annex F

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	<p>amendments to the wording for SAB to approve out of committee.</p>	
7.	<p><b>Coronavirus Update</b></p> <p><b>To receive an oral update from the Registrar on the re-introduction of live hearings.</b></p> <p>The Registrar reported / the Board concluded that:</p> <ul style="list-style-type: none"> <li>• Online hearings had proved to be effective (at BTAS and more generally);</li> <li>• Many parties who had initially (in March and April) been reluctant to have an online hearing had since elected to do so;</li> <li>• There is no backlog of cases;</li> <li>• In person hearings are scheduled to being again (in restricted form) in October. A policy/procedure has been written setting out the detail of how in person hearings will be conducted during the COVID-19 pandemic. The procedure had been settled following consultation with the BSB, parties and panellists. The policy and its implementation will be kept under constant review;</li> <li>• The Chair of the Disciplinary Tribunal and the President are considering whether to issue guidance that hearings should go ahead either online or in person unless the Chair of the Tribunal is satisfied there is good cause not to. This could prove useful if a party is reluctant to proceed with a hearing in any form in COVID-19 circumstances; such reluctance has not been encountered as yet.</li> <li>• It is thought that there may be the need for further panellist training in the area of data/information</li> </ul>	

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	<p>protection – given the amount of information that is being held electronically away from the Tribunal Suite.</p> <p>The Board passed on their thanks to the BTAS Panellists and to the BTAS team for ensuring that the move to online hearings had gone so well. The Board recorded their particular thanks to Margaret Hilson.</p>	
8.	<p><b>Sanctions Guidance Review</b></p> <p><b>To receive a report from the BTAS Sanctions Guidance Review Group on the Sanctions Guidance Survey and agree the Group’s next steps.</b></p> <p>The Board recorded their thanks for the excellent report and work of the Review Group. This work is clearly heading in the right direction and is being intelligently led. The Board made the following comments (which will be fed back to the Review Group):</p> <ul style="list-style-type: none"> <li>• Panels do sometimes struggle with the interrelationship between the general and specific guidance, clarity on that point would be useful;</li> <li>• Further guidance on the interrelationship between honesty and integrity would be welcome, along with consideration of the duty of candour;</li> <li>• There should be an equality impact assessment, the Review Group should give further thought to the timing and nature of that assessment;</li> <li>• The Review Group should give further thought as to how to consult more widely particularly on matters such as starting points and tariffs. The Board agrees that this should be done once more concrete proposals are available. The Review Group may wish to consider the Professional Standards Authority research on professional boundaries.</li> <li>• <b>ACTION:</b> The Registrar should ask the BSB to give further thought as to how health matters, particularly mental health and relapsing health, are handled within the disciplinary</li> </ul>	Annex G

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	<p>process. It is for the BSB to develop the framework for this. This should not be incorporated into the work of the Review Group.</p>	
<p>9.</p>	<p><b>Inns' Conduct Committee</b></p> <p><b>To receive an oral report from the Chair of the ICC.</b></p> <p>In IC's absence, the Registrar reported the main outcomes of the recent ICC meeting:</p> <ul style="list-style-type: none"> <li>• Online hearings had gone well and for the time being the presumption would be that hearings would be online, subject to representations received from respondents;</li> <li>• There was a need for training (probably BTAS wide) on data / information handling;</li> <li>• The ICC and BSB have signed a letter of understanding to record the fact that if the ICC considers the conduct of uncalled pupils: 'The ICC will take into account the context in which the alleged conduct occurs, as in all matters, and consider, where appropriate, whether any alleged conduct would amount to a breach of the BSB handbook... and also have regard to... the BTAS Sanctions Guidance'.</li> <li>• The ICC recommended that the BSB should give guidance as to how the Inns and ICC should deal with health and mental health matters. There is currently no guidance in this complex and sensitive area.</li> <li>• The ICC approved the 2019 Annual Report, subject to minor amendments.</li> </ul>	
<p>10.</p>	<p><b>2019 Annual Report</b></p> <p><b>To review and approve the 2019 Annual Report.</b></p> <p>The Board approved the Annual Report.</p> <p>The Board asked that:</p>	<p>Annex H</p>

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	<p><b>ACTION:</b> The BSB and the Registrar should report back to the December Board what diversity data is available to the BSB and BTAS throughout the disciplinary process. This will enable the December Board to consider whether a ‘whole system’ diversity analysis can be undertaken.</p> <p><b>ACTION:</b> The Registrar should give further consideration to analysing the equality and diversity data relating to ICC referrals in the 2020 report.</p>	
11.	<p><b>Dates of Future Meetings – TBC via Doodle Poll December 2020</b></p> <ul style="list-style-type: none"> <li>• December 2020</li> <li>• March 2021</li> <li>• June 2021</li> <li>• December 2021</li> </ul> <p>All meetings commence at 2.00pm.</p>	
12.	<p><b>Any other Business</b></p> <p>There was no other business.</p>	