

Kathryn Stone
Chair

Via email
ChairBSB@BarStandardsBoard.org.uk



**LEGAL SERVICES
BOARD**

The Chair's Office
The Rookery (3rd Floor)
2 Dyott Street
London
WC1A 1DE

T 020 7271 0043
www.legalservicesboard.org.uk

29th November 2022

Dear Kathryn

Thank you for your letter of 22 November in response to mine of 18 November, further to our Board to Board meeting on 17 November.

Let me start by reiterating that the LSB welcomes the BSB's explicit recognition of our role as oversight regulator, which encompasses holding regulated bodies to account and assessing the efficacy of their regulation and their contribution to furthering the regulatory objectives. One important implication of this is that while words of reassurance from Boards will carry some weight in our deliberations, they are rarely likely to be sufficient on their own. We would very much encourage you to avoid misinterpreting this position as disrespect.

Turning to the main point of your letter, which is to ask the LSB to particularise its concerns.

There has of course been quite extensive communication between us on a range of issues. However, we can see the merit, not least the courtesy to you as a new Chair, in collating a summary of issues of concern in one place. A summary is annexed to this letter with appropriate references to assist your team in locating relevant documents if that is needed.

It is perhaps illustrative of the nature of our concerns that this list expanded while in preparation, with the news of the BSB's apology to a leading KC.

We think it important to reflect on whether the concerns taken together indicate more systemic challenges that need to be addressed holistically if the public and the barristers profession are to have the demonstrably competent, effective and high performing regulator that engenders their confidence.

While we recognise that some action has been taken on some of the issues set out in the Annex, it is suboptimal for all concerned to continue to deal with them individually and often after something has gone wrong, with detriment to the public, to barristers, or to both.

That brings me to the words of reassurance in your letter about your board's understanding of the scale of the challenge facing the BSB. However, we have not found either the account provided of the BSB's current strengths and weaknesses or the improvements needed to make the BSB more effective convincing; not least because of the lack of specifics cited, which could have evidenced both insight and a real commitment to improvement.

I welcome your Board's clarification that it has spoken with a single voice. This is particularly striking in relation to the apparent unanimity about past shortcomings in leadership. I would

very much encourage the BSB board to reflect, however, as to why such concerns were not made available to the LSB during its 2020 “well-led” review of the BSB, or otherwise acted upon, as it may have implications for governance and the ability for the Board to surface issues of concern as a group.

I know you as Chair will share the LSB’s desire for the BSB to have the opportunity to take responsibility for its own performance and governance arrangements. We are therefore providing a further short window for the BSB to demonstrate that it has recognised the seriousness of the situation, that it is committed to fundamental reform and that it will move with appropriate pace and rigour to devise, plan and execute a credible programme of change that satisfies the expectations of the oversight regulator and begins to rebuild confidence with the public and stakeholders.

I would therefore be grateful if you could write to me no later than **Tuesday 6th December** to confirm your acceptance of this position. If you do, we will move to schedule further close engagement early in the New Year in order for the BSB to outline its emerging plans for fundamental change (by which time you will have also had the opportunity to consider our 2022 formal assessment of the BSB’s performance). I should add that my Board is not expecting the BSB to provide further responses on the individual concerns listed in the Annex at this stage.

As indicated in previous correspondence, we think there is a strong public interest in putting information into the public domain setting out these concerns. Accordingly, the LSB will publish this letter, yours of 22 November and mine of 18 November alongside our Board papers on 29 November and your response to this letter in due course.

Finally, I am copying this letter to the Chair of the General Council of the Bar in view of the potential for the LSB’s formal powers to be engaged, although that would be something whose likelihood we hope will be mitigated by your reply.

Yours sincerely

A handwritten signature in cursive script, reading "Helen Phillips".

Dr Helen Phillips

Chair

E Helen.Phillips@legalservicesboard.org.uk



By Email only

Dr Helen Phillips
Chair
Legal Services Board

12 December 2022

Dear Helen

BAR STANDARDS BOARD

Thank you for your letter of 29 November which I have now had a chance to share and discuss with my Board.

My Board is somewhat concerned that you think we have provided no more than *words of reassurance*. Board members feel that the executive, with the Board's approval, has provided a number of substantial submissions and evidence of actions over the course of the year, including on many of the issues you cite. Board members were also specific about the challenges and opportunities they saw when we met on 17 November. Your letter is the first substantive response we have received in response and, while expressing concerns about some more recent matters, reverts to a number of issues (the 2020 examinations and the Ryan Eve case, for example) which have been fully addressed.

Nevertheless, I have no difficulty in giving you the assurance you seek that the Bar Standards Board is fully committed to implementing change with pace and rigour. That is consistent with my Board's own determination to ensure that the BSB regulates proactively in the public interest and, in particular, delivers its core regulatory functions to high standards of quality and timeliness.

We look forward to discussing our plans with you in the New Year.

Yours sincerely

Kathryn Stone
Chair Bar Standards Board

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15th December 2022

Dear Kathryn,

Thank you for your letter of 12 December.

I welcome the assurance that the Bar Standards Board is fully committed to implementing change with pace and rigour.

Since I last wrote, I understand that your team has received the LSB's draft performance assessment of the BSB, for fact checking. Taking account of this assessment, the contents of my letter of 29 November and your Board's own evaluation of its progress in delivering its well-led action plan, I suggest that the next step would be for the BSB to develop and share a consolidated plan, setting out the BSB's priorities for addressing the identified risks.

In recognition of the importance of this task, I propose that the BSB should aim to provide this to the LSB by **31 January**. Once we have received this, we could then consider the value of a further Board to Board meeting, or other engagement.

Yours sincerely

Dr Helen Phillips
Chair
E Helen.Phillips@legalservicesboard.org.uk