BAR STANDARDS BOARD

REGULATING BARRISTERS

BY EMAIL

Craig Westwood
Chief Executive Officer
Legal Services Board
The Rookery
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14 April 2025

Dear Craig

BAR STANDARDS BOARD: REFORM PROGRAMME

I am writing to update on progress in delivering our Reform Programme following the meeting of our Board on 27 March and the six-way meeting the preceding day. Attached are:

- the Reform Programme update considered by the Board at its meeting - annex A;
- the quarter 3 performance report showing continuing improvements against most of our operational targets – annex B; and
- the separate action plan, approved by the Board, to address the challenge of rising volumes of applications from transferring lawyers – annex C.

We understand from the six-way meeting and from the latest annual regulatory performance assessment that, while you fully endorse the direction of travel, you continue to have concerns about the pace of reform and about our ability to measure and quantify the success of our reforms once delivered. We very much hope that we shall be able to reassure you on both counts when you join our 11 June workshop to brief you on the progress of our work to re-design our enforcement process.

Meanwhile I can state that the Reform Programme is fully mobilised and resourced, that we continue to hit all key milestones, that we shall complete the re-design of the end-to-end enforcement process by next month and that, as illustrated by annex B, there is no detriment to operational performance. I set out below some further evidence bearing on the concerns about pace and about measurement.

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Pace

Judging by our conversation on 26 March, your concern about pace partly concerns how quickly we are taking forward the current Reform Programme and partly reflects a more general lack of confidence in the speed with which we react to new challenges.
The evidence annexed to this letter demonstrates that we continue to take forward reform at pace and, as Steve Haines confirmed on 26 March, continue to be challenged by the Board to do so.

The workshops to design a new end-to-end enforcement process are now complete. Though still subject to testing and validation, we are clear that the revised process will bring significant gains in efficiency and speed, with no detriment to the quality of decisions. The full benefit of those gains will be realised once the enforcement regulations and supporting IT systems are also modernised in 2026. Some benefits are, however, already apparent and reflect the close working between teams facilitated by the creation of an end-to-end Regulatory Enforcement Department. For example, a far smaller proportion of cases referred for investigation (7%) are now being sent back for further assessment compared to the recent past (27%). This is reflected in the improving performance data set out at annex C. Under the revised process, this interface will disappear entirely as we frame allegations at the end of the investigation process rather than, as now, at the beginning.

I set out the implications of these process improvements for our targets and measures below.

Your more general concern is that we have failed to act decisively in the past in the face of known challenges and continue to be flat-footed now.

The papers and discussions at our public Board meetings, demonstrate that our comprehensive performance reporting has enabled us to identify emerging issues quickly and to react to them. A good example is the initiative we took to accelerate investigations in the Autumn of 2022 in response to the evidence of a developing backlog following that year's cyber attack and difficulties in recruiting to fill vacant posts. We also took quick action on salaries that Autumn to attract better qualified recruits to the Investigation Team. We had eliminated the backlog by the Spring of 2023.

Similarly, we picked up promptly in 2023 the growth in applications from transferring overseas lawyers, but our response – to deploy additional people in a dedicated task force – under-estimated the process challenge involved in making complex assessments of applicants' qualifications and skills against our *Professional Statement*. We have now addressed that in the action plan approved by the Board last November – annex C.

What would not have been effective would have been to make piecemeal changes to the enforcement process itself ahead of receiving the Fieldfisher Review which we commissioned in 2023. The process and organisational structure put in place in 2019 was – is – embedded in regulations and enabled by a customised IT system. Before embarking on fundamental reform, it made sense to commission an independent review able to draw on best practice across professional regulation. Of course, some of the recommendations came as no surprise, but the overhaul of the organisation, process, regulations and systems needed to be systemic and coherent. Hence the approach we took and are taking, implementing changes as soon as we are able, as noted above.

Success measures & targets

You are clearly concerned to understand what scale of improvement we expect as a result of our reforms. We fully share your view that our current targets and scorecard will need to be updated, the operational targets re-set to be more demanding and new targets and measures added on regulatory impact and on the engagement of our people. This does, however, need to be an evidenced-based process which combines ambition with realism and which takes account of the outcome of consultations on the changes to our regulations. To give one example, whether or not we move to three person panels on the Independent Decision-making Body and at the Tribunal will make an appreciable difference to the typical duration of an enforcement action.

Against that background, we have looked at what intermediate targets would be appropriate for 2025/26, bearing in mind the progress of the Reform Programme. In addition to our aim of hitting consistently the existing operational targets, we expect to:

- develop an end-to-end measure for the enforcement process from the receipt of a report to the opening of a tribunal hearing: this would underpin closer collaboration between Bar Standards Board & Bar Tribunal and Adjudication Service, ensure a tighter focus on the latter's performance and facilitate benchmarking against the performance of other regulators. Such a target would supplement, not replace, the existing enforcement targets focused on the work of the Bar Standards Board teams.
- Consistent with the action plan – annex C - develop stretch targets for handling authorisation applications from transferring qualified lawyers which would distinguish between reducing the existing backlog of applications and dealing with the flow of new applications. We may also develop separate targets for applications from lawyers from England and Wales and from lawyers outside the jurisdiction.
- increase the current target for dealing with general enquiries to put a sharper focus on the responsiveness of our service and add value for users of our service.
- add to the balanced scorecard for 2025/26 readily available measures bearing people and culture and on consumer focus (drawing on the LSCP measures).

Advice on these targets will go to the Board at its meeting in May.

We shall then take to the September Board recommendations to stretch the targets in 2026/27 as the benefits of our reforms increasingly come through. This will take the form of:

- a further suite of regulatory impact measures/targets to reflect the priorities adopted for the BSB's five-year strategy, including the insights gained from our research into consumers' expectations and experiences of using barristers;
- further enhancements of the existing operational targets to reflect improvements to the enforcement and authorisations processes that were implemented in 2025/26 ahead of regulatory and IT overhauls; and
- targets/measures capturing the efficiency improvements which our reforms will enable.

In short, we are taking a measured approach to re-setting targets, but this does not reflect any lack of drive or ambition. The Board is very clear about the outcomes we are seeking to achieve through the Reform Programme as a whole and through each of its constituent projects. To remind you, the Programme aims at three principal regulatory improvements, all contributing to our public interest vision:

- proactive, consumer-focused regulation anchored on a much deeper, intelligence-based understanding of the market we regulate;
- modernised delivery for operational excellence: this will enable us to make good our public protection responsibilities and deliver our gatekeeping, supervision and enforcement functions quickly, efficiently and responsively with no loss of quality; and
- engaged, agile and committed people, including through a re-organisation designed to clarify accountabilities, to empower our people and to increase our efficiency.

We already have measures in place which enable us to track progress against all three of these ambitions.

As always, we are happy to respond to questions in one of our regular meetings. We hope that you will be both assured and be able positively to endorse the programme and recognise the commitment of our staff to advancing the public interest.

We look forward to seeing you on 11 June.

Yours sincerely

Mark Neale
Director General