

Terms of reference: BSB Disability Taskforce

Role and Purpose

This taskforce is part of a commitment to using regulatory tools and wider best practice and to working with key stakeholders, to improve disability inclusion in the legal profession and bring about meaningful change.

Disability status is under reported, with only 53.7 per cent of the Bar providing this monitoring information to the BSB. 3.1 per cent of the Bar; 4.7 per cent of pupils; 3.3 per cent of non-QC barristers; and 1.4 per cent of QCs had declared a disability as of December 2019. Across law firms – only 3% percent of lawyers declared they had a disability in 2019 and by using the Equality Act (2010) definition we compare this to an estimated 19% of the working age population.

The Taskforce is intended to be a practical, action-orientated taskforce that will identify priorities for the Bar and BSB in enabling disability inclusion and in creating or signposting to practical tools to support this. It will operate according to the following Terms of Reference.

1. The BSB Disability Taskforce (the Taskforce) exists to provide support and input to the BSB of the development of strategy, policy and activity relating to disability inclusion for the BSB and Bar (Appendix 1). The Taskforce is an advisory body.
2. The Taskforce will advise the BSB on:
 - 2.1 **Regulation - How regulatory tools can be used to influence improved disability equality outcomes at the Bar:**
 - How disability inequality is impacted by the Bar's working cultures and professional environment
 - Best practice related to disability inclusion, which considers intersectionalities with other protected characteristics and lived experiences, including gender, race, sexual orientation and class, and how it could be used by the Bar to advance disability inclusion
 - Priority areas for the Bar and BSB to focus on in addressing weakness in current provision and practice and how regulation can underpin culture change and work in tandem with the Bar to promote values through practical application.
 - How disability inequality is impacted by issues of intersectionality with those we regulate
 - A strategy for the next three years to include what expectations should be set for individual chambers and employers of barristers and what specific activities BSB should consider taking forward, recommending or facilitating to effect change in these areas and to increase wider awareness of and improve issues of disability equality and inclusion

2.2. Routes into the Bar:

- To inspire disabled people to join the Bar by raising awareness of the Bar as a career
- Disability access and equality in all routes to qualification at the Bar
- Ensuring that diversity and inclusion is designed in from the outset in BSB examinations and assessments and built into the course
- Involving students or those in pupillages in the design of processes
- Ensuring that disabled candidates have equal access to pupillage and that chambers' approaches to recruitment are fair and inclusive and that alternative assessment methods are considered and developed to shift Chambers away from sifting on narrow criteria
- Priorities for action

2.3. The Bar Standards Board as an employer:

- Creating a supportive and inclusive culture which openly values disabled colleagues
- Raise awareness of the Bar Standards Board as an employer and advise on how it can market itself as an inclusive and welcoming environment
- Data collection and encouraging "disclosure"
- Workplace adjustments including when working remotely
- Inclusive design of all policies and processes.
- Priorities for action to enable the BSB to be an exemplar of good practice and good governance in the sector.

3. The BSB will:

- a. Consider recommendations from the Taskforce and respond to these. For any recommendation that is not adopted, a full explanation will be provided
- b. Include recommendations which are agreed between the Taskforce and the regulators, and which fall within the regulatory remit, in its plans and projects;
- c. Work with stakeholders to flag issues and progress agreed recommendations which do not fall within its remit as the regulators as appropriate; and
- d. Update members of the Taskforce on the progress of agreed recommendations, as appropriate;
- e. Measure and report on progress

4. It is envisaged that the advice of the Taskforce will be sought from:
 - a. The BSB E&AJ Team and the BSB E&AJ Programme Board;
 - b. Wider BSB teams, as appropriate; and
 - c. The BSB Board, as appropriate.
 - d. Bar training providers
 Where possible, representatives with a lived experience of disability will be sought.

5. The activity of the Taskforce will be reinforced by external advice and expertise including people with a lived experience of disability, as appropriate.

Membership

6. The Taskforce consists of:
 - a. Two co-Chairs, one who is a disability expert and one a senior representative from BSB;
 - b. BSB staff members, including members of the E&AJ teams
 - c. Representation from one or more of: Association of Disabled Lawyers, City Disabilities, Disability Rights UK, Lawyers with Disabilities Division and the Business Disability Forum.
 - d. Disability experts

7. The minimum number of members is 5, consisting of 2 barrister members and two regulator staff members. Professional membership should be representative of the practice areas and regions of the Bar across England and Wales, and of disability diversity in society.

Name	Title	Role on Taskforce
Diane Lightfoot	CEO, Business Disability Form	Co-Chair
Mark Neale	Director General, BSB	Co-Chair
Shadae Cazeau	Head of Equality & Access to Justice, BSB	Regulator representative
Gregory Burke	Barrister and Founder of AccessAble	Barrister member
Daniel Holt	Future pupil barrister and Founding Chair of ADL	Future barrister member
Emily Broad	Paralegal, Executive Assistant - ADL	ADL representative
Dr Sarabajaya Kumar	Lecturer in Voluntary & Non-Profit Sector Policy and Leadership at UCL	Freelance member
Mary Clarke	Political and Disability Rights Activist	Freelance member
Mark Henderson	Barrister, Member of the Bar Council Disability Panel	Barrister member

Meera Roy-Chowdhury	Policy Manager, Equality & Access to Justice, BSB	Project manager
---------------------	---	-----------------

8. The Taskforce will meet bi-monthly for the first three meetings and quarterly thereafter. As an advisory body, the Taskforce has no quorum, but meetings should be scheduled when full attendance is possible and rescheduled if there is a likelihood of low attendance. Meetings may be attended by SMT members and external organisations as appropriate.
9. These Terms of Reference, membership of the Taskforce and the continuing need for the Taskforce will be reviewed at least annually.
10. Members of the taskforce who are working as freelancers will be appropriately remunerated for preparation and attendance of meetings.

Appendix 1

Disability equality issues affecting the Bar.

11. The Legal Services Act 2007 requires the BSB to encourage an independent, strong, diverse and effective legal profession; and to protect and promote the public interest. Lack of diversity, and discriminatory working culture and practices are key risks to the delivery of these objectives.¹ Though diversity of barristers is improving, there is some way to go before the Bar represents the public it serves. We need to ensure that there are no barriers to access or progress and that disabled barristers have equal access to all parts of the Bar.
12. Response rates to our monitoring question on disability are still relatively low, at 53.7% as of 1/12/19, and so an element of caution should be taken when interpreting our figures on disabled practitioners at the Bar. However, disclosure rates have been steadily improving, with an average annual 5.7 percentage point increase in the proportion of practising barristers who have provided information on their disability status since 2015. The latest available diversity data for the Bar² shows that 3.1 per cent of the Bar; 4.7 per cent of pupils; 3.3 per cent of non-QC barristers; and 1.4 per cent of QCs had declared a disability as of December 2019. When excluding those that had not provided information, 6 per cent of the overall Bar; 6.2 per cent of non-QC barristers; 7.9 per cent of pupils; and 3.4 per cent of QCs had declared a disability as of December 2019. These figures all show a slight year on year increase (of between 0.1-0.4 percentage points). However, in comparison, it is estimated that around 13.4 per cent of the employed working age population (those aged 16-64) has a declared disability as of July-September 2019³. Disabled barristers are more likely to be employed or to be sole practitioners than non-disabled barristers; they are less likely to be tenants in chambers.
13. In 2020, the BSB carried out qualitative research looking at experiences of bullying, discrimination and harassment at the Bar. In relation to disabled barristers, the research found that some disabled participants reported experiencing disability discrimination in terms of them not being provided with the reasonable adjustments they required. Additionally, some participants shared experiences of where their mental health conditions were raised in appraisal or investigation meetings to undermine them, and there was evidence that the fear of such negative treatment led other barristers to hide their mental health conditions.
14. In a 2018 survey⁴, 37 per cent of disabled barristers said they had personally experienced bullying, discrimination or harassment in the last two years, in contrast to 19 per cent of non-disabled barristers. This marks an increase of 9pp for disabled barristers and 6pp for non-disabled barristers, since 2013.⁵ Of the three groups who were highlighted in the research as more likely to experience bullying, discrimination and harassment (female barristers, BAME barristers and disabled barristers) disabled barristers had the highest likelihood of responding that they had personally experienced

¹ *Draft Strategic Programme for 2019-22* (BSB, 2018); *Risk Outlook* (BSB, 2016).

² *Diversity at the Bar 2018* (BSB, 2018).

³ Calculated for Jul-Sep 2019 from Office for National Statistics datasets: A08: Labour market status of disabled people using GSS Standard Levels (People)

⁴ *Barristers' Working Lives 2017* (Bar Council, 2018).

⁵ *Barristers' Working Lives 2013* (Bar Council, 2014).

these issues. The same survey points to long working hours, considerable pressure and difficulty balancing work and home lives at the Bar. This may further encourage inappropriate workplace behaviours and inequality of opportunity.