



## Meeting of the Bar Standards Board

**Thursday 31 January 2019, 5.00 pm**  
**Room 1, First Floor, Bar Standards Board Offices,**  
**289-293 High Holborn, London, WC1V 7HZ**

### Agenda - Part 1 – Public

				<b>Page</b>
1.	<b>Welcome / announcements</b> (5.00 pm)		Chair	
2.	<b>Apologies</b>		Chair	
3.	<b>Members' interests and hospitality</b>		Chair	
4.	<b>Approval of Part 1 (public) minutes</b>			
	• 22 November 2018	Annex A	Chair	<b>3-6</b>
5.	a) <b>Matters arising and action points</b>	Annex B	Chair	<b>7</b>
	b) <b>Forward agenda</b>	Annex C	Chair	<b>9</b>
6.	<b>Approval of New Transparency Rules</b> (5.05 pm)	BSB 001 (19)	Joseph Bailey	<b>11-26</b>
7.	<b>Diversity at the Bar Report</b> (5.25 pm)	BSB 002 (19)	Amit Popat	<b>27-56</b>
8.	<b>Chair's Report on Visits and External Meetings from Dec 2018 – Jan 2019 (*)</b>	BSB 003 (19)	Chair	<b>57</b>
9.	<b>Any other business</b> (5.30 pm)			
10.	<b>Date of next meetings</b>			
	• Thursday 28 March 2019 (Board to Board with LeO – 3.45 pm – 5.00 pm) (BSB meeting 5 pm – 7.30 pm)			
11.	<b>Private Session</b>			

**John Picken**  
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 24 January 2019



<p style="text-align: center;">BAR STANDARDS BOARD</p>
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REGULATING BARRISTERS

**Part 1 - Public****Minutes of the Bar Standards Board meeting**

Thursday 22 November 2018, Room 1.1, First Floor

289 – 293 High Holborn, London, WC1V 7HZ

- Present:** Baroness Tessa Blackstone (Chair)  
 Alison Alden OBE  
 Justine Davidge  
 Lara Fielden  
 Steven Haines  
 Zoe McLeod (*attendance by phone*)  
 Andrew Mitchell QC  
 Nicola Sawford  
 Adam Solomon QC  
 Kathryn Stone OBE  
 Anu Thompson  
 Stephen Thornton CBE
- By invitation:** Andrew Walker QC (Chair, Bar Council)  
 Richard Atkins QC (Vice Chair, Bar Council)  
 James Wakefield (Director, COIC)  
 Malcolm Cree (Chief Executive, Bar Council)  
 Mark Hatcher (Special Adviser to the Chair of the Bar Council) (items 1-7)
- BSB Executive in attendance:** Vanessa Davies (Director General)  
 Rebecca Forbes (Governance Manager)  
 Oliver Hanmer (Director of Assurance)  
 Andrew Lamberti (Communications Manager)  
 Hayley Langan (Senior Training Supervision Officer)  
 Ewen Macleod (Director of Strategy and Policy)  
 John Picken (Governance Officer)  
 Wilf White (Director of Communications and Public Engagement)
- Press:** Neil Rose (Legal Futures)  
 Max Walters (Law Society Gazette)

**Item 1 – Welcome**

1. Tessa Blackstone welcomed members to the meeting and made the following announcements:
  - Naomi Ellenbogen QC, Aidan Christie QC and Nicola Sawford have been appointed for a second term of office to the Board;
  - Justine Davidge will leave the Board at the end of the year following completion of her second term.
2. The Board joined the Chair in thanking Justine for her outstanding contribution to the BSB, particularly her role as Chair of the Education & Training Committee and the Future Bar Training (FBT) Programme Board.

**Item 2 – Apologies**

- Aidan Christie QC
- Naomi Ellenbogen QC
- Lorinda Long (Treasurer, Bar Council)
- Sara Jagger (Director of Professional Conduct)

**Item 3 – Members’ interests and hospitality**

3. None.

**Item 4 – Approval of Part 1 (public) minutes (Annex A)**

4. The Board approved the Part 1 (public) minutes of the meeting held on Thursday 25 October 2018.

**Item 5a – Matters arising and action points (Annex B)**

5. The Board noted the updates to the action list.

**Item 5b – Forward Agenda (Annex C)**

6. Members noted the forward agenda list. Nicola Sawford confirmed it would be revised in due course with a view to reducing the number of risk related items.

**Item 6a – Education & Training Committee Annual Report for 2018**

BSB 057 (18)

7. Justine Davidge summarised the work of the Education & Training Committee over the past year and reflected on the wider changes that have occurred since she joined the Board. Regarding the review of legal education and training, she thanked those involved for their efforts in completing the necessary policy work prior to implementation.

8. **AGREED**

to note the report.

**Item 6b – The future of the Education & Training Committee**

BSB 058 (18)

9. Justine Davidge referred to the recommendation to disestablish the Education & Training Committee in February 2019. She confirmed the Committee’s view that, subject to LSB approval of rule changes, it is an appropriate time to take this action, though the FBT Programme Board will continue in its current form until mid-2019. The Board will now be responsible for future direction of education policy.

10. **AGREED**

to disestablish the Education and Training Committee in February 2019 following the LSB’s approval of the rule changes.

**Item 7 – Continuing Professional Development (CPD) Compliance**

BSB 059 (18)

11. The Board considered the outcome of a CPD compliance spot check carried out in June 2018. This identified a high level of compliance (90%) and the majority (80%) of those initially deemed non-compliant have since taken the necessary corrective action.
12. In answer to questions from Members, Hayley Langan commented that:
- our initial response to non-compliance is advice and guidance but it remains a breach of the Code of Conduct and could, ultimately, lead to referral to the Professional Conduct Department.
  - there is a lack of awareness of the new scheme among some barristers, as evidenced by those using the old template to record CPD activity. We

shall therefore seek to improve our engagement with the profession in association with the Bar Council and Specialist Bar Associations (SBAs);

13. Andrew Walker QC confirmed the Bar Council continues to promote the new scheme to the profession and has endorsed it as an opportunity for barristers to tailor CPD to their individual needs.
14. The following points were also raised:
  - the spot check highlighted compliance issues with the planning and reflection stages, so it would be helpful and timely to issue updated guidance. We could also contact the relevant APEX Member for advice;
  - we need to understand what makes some barristers “harder to reach” and identify better means of communication. This is something to discuss with providers bidding to undertake the external evaluation of the scheme;
  - notwithstanding the encouraging start, our target remains 100% compliance and the Board needs to be kept informed of progress.
15. **AGREED**  
to note the report.

HL to  
note

#### **Item 8 – Authorisations Review Panel Annual Report** BSB 060 (18)

16. Oliver Hanmer commended the work of the Authorisations Review Panel and confirmed that its members will transfer to the Independent Decision Making Board (IDB) when it comes into being in June 2019.
17. Adam Solomon QC welcomed the positive nature of the report and asked if the application review outcome statistics compared favourably with the equivalent figures from the former system.
18. **AGREED**
  - a) to note the report.
  - b) that comparative statistical data on application review outcomes be circulated to the Board.

OH

#### **Item 9 – Mid-year report of the Planning, Resources and Performance Committee (PRP)** BSB 061 (18)

19. Steven Haines commented positively on current progress for business plan delivery. He also referred to the shared resource model and the Committee’s desire for effective change controls based on the principles of benefits, risks and consequences. The BSB is concluding two major projects within the next three months and this may increase demand on support services.
20. In response to questions raised, the Executive stated that:
  - the rise in staff turnover is not due to systemic reasons. No recurring themes have been identified in exit interviews but the PRP Committee will continue to monitor the situation;
  - the objective of the “business partnering” approach with the Resource Group (RG) is that the BSB takes greater responsibility for its own financial management. To do this the RG will need to better understand our business needs and equip us accordingly;
  - all of the additional income from higher than budgeted BPTC receipts has been used for increased costs in the Examination Team.
21. Nicola Sawford referred to the risks around the Information Management Programme mentioned in the report. She said that GRA Committee discussed

## Part 1 - Public

this matter in detail at its September meeting and was satisfied with progress. It will review the corporate risk register at its meeting on 27 November 2018.

22. **AGREED**

to note the report.

**Item 10 – Amendment of Scheme of Delegations following approval of exemption application for s69 Order changes**

BSB 062 (18)

23. Ewen Macleod confirmed that Parliament approved the s69 Order request and the LSB has since agreed the relevant changes to the Handbook. In consequence, the Scheme of Delegation now needs amendment.

24. **AGREED**

- a) that, following publication of the revised Handbook, the Scheme of Delegation be amended to enable the Director General to:
- (i) authorise the issue of a notice requiring the production of documents and / or provision of information in relation to a licensed body (section 93 Legal Services Act 2007 and rC64.4);
  - (ii) authorise the issue of a notice requiring the production of documents and / or provision of information in relation to a BSB authorised individual or BSB authorised body (Article 5 Legal Services Act 2007 (General Council of the Bar) (Modification of Functions) Order 2018 and rC64.4); and
  - (iii) provide express written consent to the appointment of a person who has been disqualified as an employee of a barrister in chambers (rC89.3).
- b) to approve the Director General's sub-delegations as set out in paragraph 15 of the paper.

**RF / EM  
to note**

**RF to  
note**

**Item 11 - Chair's report on visits and external meetings from November 2018**

BSB 063 (18)

25. The Board **noted** the report subject to deletion of the meeting with Lord Keen. This was due to take place on 21 November 2018 but was cancelled by his office at short notice.

**Item 12 – Any Other Business**

26. Andrew Walker QC

Tessa Blackstone confirmed that this was Andrew Walker's last Board meeting as Chair of the Bar Council and undertook to thank him on the Board's behalf for his attendance and contribution to discussions.

**TB to  
note**

**Item 13 – Dates of next meetings**

27. • Thursday 13 December 2018 (Board Away Day);  
• Thursday 31 January 2019.

**Item 14 – Private Session**

28. The following motion, proposed by the Chair and duly seconded, was agreed. That the BSB will go into private session to consider the next items of business:
- (1) Approval of Part 2 (private) minutes – 25 October 2018;
  - (2) Matters arising and action points – Part 2;
  - (3) Non-disclosure agreements: proposed new guidance;
  - (4) LSB Internal Governance Rules (IGR) Consultation;
  - (5) Any other private business.

29. The meeting finished at 5.35 pm.

## BSB – List of Part 1 Actions

31 January 2019

*(This includes a summary of all actions from the previous meetings)*

Min ref	Action required	Person(s) responsible	Date of action required	Progress report	
				Date	Summary of update
18b (22/11/18)	in respect of the authorisations report, circulate comparative statistical data on application review outcomes relative to the equivalent figures from the old system	Oliver Hanmer	before 24 Jan 19	21/01/19	<b>Completed</b> – data emailed to members.
9b (25/10/18)	seek a rule change application with the LSB for proposed revisions to the Enforcement Decision Regulations and the associated consequential amendments to the BSB Handbook	Sara Jagger	by early Feb 19	13/11/18	<b>Change to deadline</b> – as the new Regulatory Operations arrangements are not now due to be come into force until 1 June 2019, the application to the LSB is scheduled for early February 2019.
				18/01/19	<b>Ongoing</b> – draft application in progress - -due to be discussed with LSB in early February prior to formal submission in mid/late February depending on LSB response to draft.
9b (27/09/18)	engage with stakeholders to improve access to information for litigants-in-person about the UK legal system including the adversarial nature of the barrister's role	Wilf White	before Aug 19	22/01/19	<b>Ongoing</b> – Wilf White has spoken to the Legal Choices Steering Group and it has been agreed that the BSB will contribute two articles to the site this year one of which will cover this issue. Date not yet finalised but perhaps April.
				13/11/18	<b>Ongoing</b> – planning to speak with stakeholders involved with Legal Choices website





**Forward Agendas****Thursday 28 Mar 19 (Joint meeting with LeO - 3.45 pm – 5.00 pm)****Thursday 28 Mar 19 (Full Board meeting - 5 pm)**

- BSB Strategy 2019-22 *(to include annexes on Business Plan for 2019-20; BSB Research Strategy 2019-21 and Communications and Public Engagement Strategy)*
- EIA of Equality Rules
- Regulatory Operations Programme – Regulatory Decision Making
- Bar Training Rules – Changes to the Scheme of Delegations
- Strategic update from the Director General
- Scope of practice consultation
- AETO Authorisation and Supervision Fees and Charges
- Consolidated Risk Report

**Thursday 2 May 19 (BOARD AWAY DAY)**

- Risk Index 2019 and appetite setting

**Thursday 13 June 19**

- End of Year Performance Report – PRP Committee
- Strategic update from the Director General

**Thursday 18 Jul 19**

- 2018/19 Enforcement Report (summary)
- GRA Update Report (summary)

**Wednesday 18 Sept 19 (Joint Meeting with the LSB 3.30 pm – 5 pm)****Thursday 26 Sept 19**

- Strategic update from the Director General
- Consolidated Risk Report (summary)

**Thursday 31 Oct 19**

- GRA Annual Report
- Mid Year report – PRP Committee

**Thursday 28 Nov 19 (BOARD AWAY DAY)****Thursday 30 Jan 20**

- Strategic update from the Director General
- GRA Update Report (summary)

**Thursday 26 Mar 20**

- Strategic update from the Director General
- Consolidated Risk Report



<b>Meeting:</b>	Bar Standards Board	<b>Date:</b>	31 January 2019
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<b>Title:</b>	<b>Approval of New Transparency Rules</b>
<b>Author:</b>	Joseph Bailey
<b>Post:</b>	Senior Policy Officer

<b>Paper for:</b>	<b>Decision:</b> <input checked="" type="checkbox"/>	<b>Discussion</b> <input type="checkbox"/>	<b>Noting</b> <input type="checkbox"/>	Other: <input type="checkbox"/> (enter text)
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**Recommendation(s)**

The Board is asked to **note** the proposed BSB responses to issues raised in the consultation and **approve** the draft transparency rules, attached at Annex A.

**Executive Summary**

The paper summarises the responses received to the rules consultation on transparency standards and the executive's proposed responses.

The rules give effect to the BSB's approach to improving transparency for consumers, which was published in February 2018. We agreed that price and service transparency requirements are most likely to increase consumer understanding and "shopping around" in the context of the Public Access Bar, in areas that are less bespoke and relatively standardised.

We also suggested that all barristers should be required to meet minimum transparency standards in relation to price and service. This would improve transparency and encourage consumers to research their options, "shopping around" by comparing providers.

The executive proposes broadly to proceed as planned, subject to some changes suggested by consultation responses.

**Risk**

These recommendations address the following regulatory risks from our Risk Index:

- 1.2 – Failure to give clear information about fees;
- 5.1 – Failure to meet consumer demand;
- 5.3 – Poor public perception of legal services;
- 5.4 – Affordability or value concerns;
- 5.5 – Lack of accessible, quality market information to inform consumer choice; and
- 5.8 – Competitive concerns.

A number of responses from the profession did not agree with applying price transparency requirements to less bespoke Public Access services, while the Legal Services Consumer Panel did not agree that the requirement to provide quotations for legal services would be the most effective way of helping consumers to "shop around", instead endorsing the publication of price information upfront.

The new transparency rules seek to achieve a balance, applying price transparency requirements to less bespoke Public Access services in a proportionate and targeted way. The general requirement to provide quotations for legal services will help consumers (for whom legal services are often an infrequent and/or distress purchase) to research their options in an objective and thorough manner. We will also undertake a review of the transparency rules from 2020.

**Resources (Finance, IT, HR)**

Significant resources have been identified through the Programme Plan and have been factored into the budgeting process for this year and next.

**Equality & Diversity**

Our proposals have been equality impact assessed at every stage, and we are of the view that the proposals are justified given the expected benefits to access to justice, competition and Public Access clients in particular. We will review whether there has been any adverse impact for different groups as part of the evaluation of the requirements from 2020. We have also produced comprehensive guidance to support barristers in complying with the requirements, and taken steps to ensure that, for those returning from maternity leave, the requirements will not act as a barrier to restarting their practice.

## Approval of New Transparency Rules

### Introduction

1. Following the Competition and Market Authority's (CMA's) market study into legal services and [final report](#) in December 2016, and the BSB's [proposed approach](#) to improving transparency for consumers in February 2018, the BSB published a [rules consultation](#) on transparency standards in September 2018. The consultation closed in December 2018, and this paper summarises the responses received.
2. The consultation consisted of seven questions and we received 12 responses from<sup>1</sup>:

Bar Council  
 Chancery Bar Association  
 Clerksroom  
 Commercial Bar Association  
 Employment Law Bar Association  
 Family Law Bar Association  
 Legal Ombudsman  
 Legal Practice Management Association  
 Legal Services Consumer Panel  
 Lincoln House Chambers  
 Personal Injuries Bar Association  
 One individual barrister

### Analysis of consultation responses

3. The consultation set out our proposed new transparency rules:
  - Rules on price and service transparency for all (by "all", we mean all self-employed barristers, chambers and BSB entities);
  - Rules on redress transparency for all; and
  - Additional rules on price and service transparency for those undertaking Public Access work. This includes self-employed barristers undertaking Public Access work, and BSB entities supplying legal services directly to the public.
4. The consultation also asked for views on the Public Access services that should be subject to additional price transparency requirements, and the [specific circumstances](#) in which they apply. These are not listed in the rules themselves, but in the BSB's accompanying [price transparency policy statement](#) (Annex B in hyperlink). This will give flexibility to amend the list of Public Access services to which additional price transparency requirements apply.
5. Respondents to the consultation made a number of helpful suggestions in relation to our Transparency Standards Guidance and our [examples of required transparency for Public Access services](#) (Annexes C-K in hyperlink). These suggestions are not discussed in this paper, but we will take them forward where appropriate.

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<sup>1</sup> Efforts were made to encourage a range of consumer organisations to respond to the consultation, but all stated that they did not have the resources to respond at the time

Rules on price and service transparency for all*Quotations for legal services – what respondents said*

6. The consultation proposed all those regulated by the BSB would need to state on their websites that professional, licensed access and/or lay clients (as appropriate) may contact them to obtain a quotation for legal services. Respondents stated that the rule should not compel barristers to give quotations for cases they do not intend to take on.

*Proposed BSB response*

7. The rule will be amended to clarify that “if the barrister, chambers or BSB entity is willing/would be required to provide the legal services and after sufficient information has been provided, quotations must be provided”.

*Most commonly used pricing models for legal services – what respondents said*

8. We proposed that everyone should state their most commonly used pricing models for legal services, such as fixed fee or hourly rate. The Bar Council’s view was that there is potential for this to create confusion for less experienced consumers, and heighten expectations that a particular pricing model will be available when it may not be. They suggested this information would be better provided on the Legal Choices website.

*Proposed BSB response*

9. While it may be useful to provide this information on the Legal Choices website, not all clients will be aware of it and all barristers should be required to meet minimum transparency standards. It would be acceptable to state that pricing models are only available in certain circumstances, and guidance will be updated to clarify this.

*Factors which might influence timescales – what respondents said*

10. We proposed that everyone should provide information about factors that might influence the timescales of a case. The Bar Council queried what is meant by “case” i.e. whether the rule refers only to a particular piece of work on which the barrister has been instructed, or across a whole case (which can vary significantly). They felt that this should not be required for referral cases, particularly as it will be difficult for barristers to control timescales.

*Proposed BSB response*

11. To avoid confusion, the rule will be amended to state that websites must “provide information about the factors which might influence the timescales of their most commonly provided legal services”. All barristers should be required to meet minimum transparency standards in relation to service. Even if a barrister cannot control timescales, it will be useful for this to be explained to clients to manage expectations.

*Providing information in hard copy format – what respondents said*

12. Clerksroom commented that the proposed requirement to ensure information is readily available in hard copy format should instead be to ensure information is readily available in alternative format. This is because if a client or prospective client does not have Internet access, they may not only require information in hard copy format.

*Proposed BSB response*

13. As suggested, the requirement to ensure information is readily available in hard copy format will instead be to ensure information is readily available in alternative format.

Rules on redress transparency for all*Linking to the Legal Ombudsman's decision data and BSB's Barristers' Register – what respondents said*

14. The consultation proposed that all those regulated by the BSB would need to provide on their websites a link to the [decision data](#) on the Legal Ombudsman's (LeO's) website (allowing consumers to see which providers received an ombudsman's decision in the previous year), and a link to the [Barristers' Register](#) on the BSB's website (allowing consumers to see whether a barrister has a current practising certificate and any disciplinary findings).
15. The Bar Council and the Legal Practice Management Association stated that it would be better for the BSB's own website to link to LeO's decision data. The Family Law Bar Association was concerned about the potential for the decision data to discourage clients from selecting a particular barrister simply because a number of complaints have been made against them, even if not upheld. The Bar Council and the Legal Practice Management Association also stated that, as the Solicitors Regulation Authority (SRA) will not require those it regulates to link to LeO's decision data or a register setting out practising status and disciplinary findings, this could place barristers at a competitive disadvantage. The Legal Services Consumer Panel suggested we bring together our regulatory information and LeO's decision data in one place.

*Proposed BSB response*

16. While it will be useful for the BSB's website to link to LeO's decision data, not all clients will view the BSB's website. We note that the Legal Ombudsman's decision data include complaints received alongside complaints upheld, but the useful figure for clients will be complaints upheld and we believe there is a public interest in giving clients access to this information. The requirement should also incentivise barristers to ensure that complaints, insofar as possible, are effectively handled and resolved at the first-tier stage. We consider it unlikely that the absence of a similar obligation on solicitors will place barristers at a competitive disadvantage. We will consider bringing our regulatory information and LeO's decision data together when our respective information systems permit this.

Additional rules on price and service transparency for those providing certain Public Access services*Likely additional costs – what respondents said*

17. We proposed that those providing the Public Access services listed in the BSB's price transparency policy statement would need to state on their website likely additional costs for those services. The Bar Council stated that as barristers (unlike solicitors) do not incur disbursements on behalf of their clients, it is difficult to see what the requirement is intended to achieve. They noted that it may be possible to publish generalised information about likely additional costs; for example, court fees. However, they were concerned about the administrative burden for chambers in reviewing and updating website content.

*Proposed BSB response*

18. The purpose of this requirement is to help consumers to budget, and understand what indicative fees do and do not cover (which will be even more important in the absence of a solicitor). While there will be some administrative burden for chambers in reviewing and updating website content, there will already be a requirement to review website content at least annually to ensure it is accurate and compliant with the transparency rules.

Public Access services subject to additional transparency rules in certain circumstances

19. We suggested that the following Public Access services should be subject to price transparency requirements in certain circumstances:
- Child arrangements arising out of divorce or separation
  - Employment Tribunal cases (advice and representation for employers and employees)
  - Financial disputes arising out of divorce
  - Immigration appeals (First-tier Tribunal)
  - Inheritance Act advices
  - Licensing applications in relation to business premises
  - Personal injury claims
  - Summary only motoring offences (advice and representation for defendants)
  - Winding-up petitions

*What respondents said*

20. The Bar Council and the Family Law Bar Association stated that cases concerning child arrangements arising out of divorce or separation are not standardised, and can vary dramatically depending on the circumstances of the particular case. It would therefore be difficult to provide accurate indicative fees for these services.
21. The Employment Law Bar Association suggested clarifying that the additional price transparency rules only apply in relation to actions for wrongful dismissal, and ordinary unfair dismissal claims. The latter are claims where compensation is subject to a statutory cap, as distinct from automatic unfair dismissal claims (for example, whistleblowing claims) where compensation is not subject to a statutory cap and, in their view, it is more difficult to provide accurate indicative fees. The Employment Law Bar Association also suggested clarifying that the additional price transparency rules only apply where there are no other claims being brought in addition i.e. only ordinary unfair dismissal and/or wrongful dismissal.
22. A number of respondents to the consultation noted that the SRA has not pursued price transparency requirements for these services. They therefore stated that additional price transparency requirements should not apply to Public Access barristers providing these services.
23. The Bar Council and the Family Law Bar Association stated that financial disputes arising out of divorce range depending on how straightforward the division of the assets is likely to be in practice. While the issues can be straightforward (for example, whether to divide the assets in a modest former home 50%/50% or 45%/55%), they can also involve issues such as offshore trusts, third party interveners, company valuations, expert evidence and/or interim applications for freezing injunctions. The Bar Council and the Family Law Bar Association also stated that Inheritance Act work can vary depending on the number of beneficiaries, the number of parties to the dispute and the value of the estate.



*Proposed BSB response*

24. We agree that cases concerning child arrangements arising out of divorce or separation are not conducive to providing indicative fees in the abstract, and will therefore not pursue price transparency requirements.
25. We agree with the Employment Law Bar Association's suggestions and will take them forward.
26. While the SRA not applying price transparency requirements to services may inhibit comparison and competition to some extent, we propose to continue to do so. This is because doing so will provide less experienced, less expert and more vulnerable clients with beneficial information remedies. It will also support the BSB's policy objective (in our price transparency policy statement) of having the greatest impact on the legal services market.
27. However, in relation to financial disputes arising out of divorce, we propose to limit price transparency requirements to cases where the parties have joint assets worth less than £300,000. This is based on practitioner feedback that if joint assets are above this level, it will be more difficult to provide accurate indicative fees.
28. The proposal in relation to Inheritance Act work was to only apply price transparency requirements to Inheritance Act advices, where clients receive advice on making and defending claims under the Act. We propose to limit their application to cases where the deceased person's estate is worth less than £300,000. This is again based on practitioner feedback that if the estate is worth more than this, it will be more difficult to provide accurate indicative fees.

**Next steps**

29. Following approval by the Board, an application will be made to the Legal Services Board and a consultation report will be published on the BSB's website. The rules are expected to come into force in May 2019, with compliance spot-checking from January 2020.
30. From 2020, we will begin a review of the transparency rules. If we consider that there may be a case for applying price transparency requirements to more Public Access services, we will proceed carefully and consult the relevant Specialist Bar Associations.

**Regulatory objectives**

31. The new transparency rules will promote the following regulatory objectives:
  - Protecting and promoting the public interest;
  - Improving access to justice;
  - Protecting and promoting the interests of consumers; and
  - Promoting competition in the provision of services.

**Lead responsibility**

**Joseph Bailey, Senior Policy Officer**

**Annex A – Draft New Transparency Rules**





## Draft New Transparency Rules – January 2019

### *Draft rules on price and service transparency for all*

#### **D6. Price and service transparency rules for self-employed barristers, chambers and BSB entities**

##### **Outcomes**

**oC36** *Clients* are provided with appropriate information to help them understand the price and service they will receive.

#### **D6.1 Self-employed barristers, chambers and BSB entities**

##### **Rules**

##### **Publication of information**

**rC159** Each website of *self-employed barristers, chambers and BSB entities* must, in a sufficiently accessible and prominent place:

**.1** state that professional, licensed access and/or lay clients (as appropriate) may contact the *barrister, chambers or BSB entity* to obtain a quotation for *legal services* and provide contact details. If the *barrister, chambers or BSB entity* is willing/would be required to provide the *legal services* and after sufficient information has been provided, quotations must be provided within a reasonable time period, and in clear and readily understandable terms;

**.2** state their most commonly used pricing models for *legal services*, such as fixed fee or hourly rate. Where different models are typically used for different *legal services*, this must be explained;

**.3** state the areas of law in which they most commonly provide *legal services*, and state and describe the *legal services* which they most commonly provide, in a way which enables *clients* to sufficiently understand the expertise of the *barrister, chambers* or *BSB entity*; and

**.4** provide information about the factors which might influence the timescales of their most commonly provided *legal services*.

**rC160** All *self-employed barristers, chambers* and *BSB entities* must review their website content at least annually to ensure that it is accurate and complies with the transparency requirements referred to in Rules C103, C159 and where applicable, Rules C164 – C168.

**rC161** *Self-employed barristers, chambers* and *BSB entities* must comply with the transparency requirements referred to in Rules C103, C159 and where applicable, Rules C164 – C168 by ensuring the required information is readily available in alternative format. This must be provided on request (for example, if they do not operate a website, or a *client* or prospective *client* does not have Internet access).

### **Provision of information to the Bar Standards Board**

**rC162** All *self-employed barristers, chambers* and *BSB entities* must notify the *Bar Standards Board* of their website address(es) offering *legal services*, and any changes to their website address(es), within 28 days of the creation or change of the same.

### **Bar Standards Board guidance**

**rC163** When offering their services to *clients* and prospective *clients*, all *self-employed barristers, chambers* and *BSB entities* must have regard to guidance published from time to time by the *Bar Standards Board* in relation to price and service transparency [hyperlink].

*Draft rules on redress transparency for all***D. RULES APPLYING TO PARTICULAR GROUPS OF REGULATED PERSONS****D1. Self-employed barristers, chambers and BSB entities****Outcomes**

~~oC26~~ *Clients know that they can make a complaint if dissatisfied, and know how to do so. Clients are provided with appropriate information about redress, know that they can make a complaint if dissatisfied, and know how to do so.*

**D1.1 Complaints rules****Rules****Provision of information ~~to clients~~**

~~rC103~~ *Chambers' websites and literature must display information about the chambers' complaints procedure. A BSB's authorised body's website and literature must carry information about that BSB entity's Complaints Procedure.*

Each website of *self-employed barristers, chambers and BSB entities* must display:

- .1 on the homepage, the text “regulated by the Bar Standards Board” (for sole practitioners) or “barristers regulated by the Bar Standards Board” (for *chambers*) or “authorised and regulated by the Bar Standards Board” (for *BSB entities*); and
- .2 in a sufficiently accessible and prominent place:
  - .a information about their complaints procedure, any right to complain to the Legal Ombudsman, how to complain to the Legal Ombudsman and any time limits for making a complaint;
  - .b a link to the decision data on the Legal Ombudsman's website [hyperlink]; and
  - .c a link to the Barristers' Register on the BSB's website [hyperlink].

.3 All e-mail and letterheads from *self-employed barristers* and *BSB entities*, their *managers* and employees must state “regulated by the Bar Standards Board” (for *self-employed barristers*) or “authorised and regulated by the Bar Standards Board” (for *BSB entities*).

.4 *Self-employed barristers, chambers* and *BSB entities* must have regard to guidance published from time to time by the *Bar Standards Board* in relation to redress transparency [hyperlink].

***Draft additional rules on price and service transparency for those undertaking Public Access work***

**D6.2 Self-employed barristers undertaking public access work and BSB entities supplying legal services directly to the public**

**Rules**

**Public Access Guidance for Lay Clients**

**rC164** Each website of *self-employed barristers* undertaking public access work and/or their *chambers*, and *BSB entities* supplying *legal services* directly to the public, must in a sufficiently accessible and prominent place display a link to the Public Access Guidance for Lay Clients on the BSB’s website.

**Price transparency policy statement**

**rC165** *Self-employed barristers* undertaking public access work and/or their *chambers*, and *BSB entities* supplying *legal services* directly to the public, must comply with the *Bar Standards Board’s* price transparency policy statement insofar as it applies to them [hyperlink].

**Publication of information**

**rC166** *Self-employed barristers* undertaking public access work and/or their *chambers*, and *BSB entities* supplying *legal services* directly to the public, are required by the *Bar*

*Standards Board's* price transparency policy statement to provide price information in relation to certain *legal services* in certain circumstances. In relation to those *legal services* and in those circumstances, each website of *self-employed barristers* undertaking public access work and/or their *chambers*, and *BSB entities* supplying *legal services* directly to the public, must in a sufficiently accessible and prominent place:

- .1 state their pricing model(s), such as fixed fee or hourly rate;
- .2 state their indicative fees and the circumstances in which they may vary. For example, a fixed fee and the circumstances in which additional fees may be charged, or an hourly rate by seniority of *barrister*;
- .3 state whether their fees include VAT (where applicable); and
- .4 state likely additional costs, what they cover and either the cost or, if this can only be estimated, the typical range of costs.

**rC167** In compliance with the requirements of Rule C166 above:

- .1 a sole practitioner must provide price information in relation to them as an individual *barrister*;
- .2 a *BSB entity* must provide price information in relation to the entity; and
- .3 a *chambers* may provide price information either in relation to (1) individual *barristers*, or (2) *barristers* in *chambers* in the form of ranges or average fees.

**rC168** *Self-employed barristers* undertaking public access work and/or their *chambers*, and *BSB entities* supplying *legal services* directly to the public, are required by the *Bar Standards Board's* price transparency policy statement to provide service information in relation to certain *legal services* in certain circumstances. In relation to those *legal services* and in those circumstances, each website of *self-employed barristers* undertaking public access work and/or their *chambers*, and *BSB entities* supplying *legal services* directly to the public, must in a sufficiently accessible and prominent place:

.1 state and describe the *legal services*, including a concise statement of the key stages, in a way which enables *clients* to sufficiently understand the service of the sole practitioner, *barristers in chambers* or *BSB entity*; and

.2 provide an indicative timescale for the key stages of the *legal services*.

**rC169** *Self-employed barristers* undertaking public access work, and *BSB entities* supplying *legal services* directly to the public, may be asked to accept *instructions* to provide the *legal services* listed in the *Bar Standards Board's* price transparency policy statement at short notice. In these circumstances, you are not required to comply with Rules C166 – C168 above before accepting the *instructions*. However, you must do so as soon as reasonably practicable after accepting the *instructions*.

***List of Public Access services subject to additional transparency rules in certain circumstances***

These Public Access services are not listed in the rules themselves, but in the BSB's accompanying [price transparency policy statement](#) (Annex B). This means that the BSB will have the necessarily flexibility to amend the list of Public Access services to which additional price transparency requirements apply.

**Employment Tribunal cases (advice and representation for employers and employees)**

- Providing advice and representation to employees in relation to their bringing of a claim before the Employment Tribunal against their employer; and/or
- Providing advice and representation to employers in relation to defending claims before the Employment Tribunal brought by an employee.

Note that additional price transparency rules only apply in relation to actions for ordinary unfair dismissal and/or wrongful dismissal. Additional price transparency rules do not apply where there are other claims brought in addition to ordinary unfair dismissal and/or wrongful dismissal.



Financial disputes arising out of divorce

By “financial disputes arising out of divorce”, we mean where the parties cannot agree on financial matters during the process of obtaining, or following, a divorce. For example:

- How assets should be divided;
- Whether to sell the matrimonial home or other assets;
- Maintenance payments; and
- Pension sharing.

Note that additional price transparency rules only apply where the parties have joint assets which are worth less than £300,000.

Immigration appeals (First-tier Tribunal)

- Preparing applications in relation to appeals against Home Office visa or immigration decisions; and/or
- Providing advice and representation at the First-tier Tribunal (Immigration and Asylum Chamber) in relation to appeals against Home Office visa or immigration decisions.

Note that additional price transparency rules do not apply to asylum appeals.

Inheritance Act advices

- Providing advice to clients in relation to potential claims under the Inheritance Act 1975; and/or
- Providing advice to clients in relation to defending claims under the Inheritance Act 1975.

Note that additional price transparency rules do not apply where the deceased person’s estate is worth less than £300,000.

Licensing applications in relation to business premises

Note that additional price transparency rules only apply in relation to a) local authority hearings and appeals to the Magistrates’ Court, and b) licensing applications for:

- The sale or supply of alcohol;
- Change of opening hours; and
- Entertainment purposes.

#### Personal injury claims

- Providing advice and representation to clients in relation to personal injury claims (claims for physical injuries, diseases or illnesses, or psychological injuries or illnesses).

Note that additional price transparency rules only apply in relation to claims which are allocated to the fast track (generally, claims which are not worth more than £25,000).

#### Summary only motoring offences (advice and representation for defendants)

Note that additional price transparency rules only apply in relation to summary only motoring offences under Part I of the Road Traffic Act 1988 and/or s89 of the Road Traffic Regulation Act 1984. For example:

- Driving while disqualified;
- Driving without insurance;
- Careless driving;
- Failing to stop or report; and
- Speeding.

#### Winding-up petitions

- Providing advice and representation to clients in relation to winding-up companies which owe them monies; and/or
- Providing advice and representation to companies in relation to defending winding-up petitions issued against them.

<b>Meeting:</b>	Bar Standards Board	<b>Date:</b>	31 January 2019
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<b>Title:</b>	<b>Diversity at the Bar Report</b>
<b>Author:</b>	Amit Popat
<b>Post:</b>	Head of Equality and Access to Justice

<b>Paper for:</b>	<b>Decision:</b> <input checked="" type="checkbox"/>	<b>Discussion</b> <input type="checkbox"/>	<b>Noting</b> <input type="checkbox"/>	Other: <input type="checkbox"/> (enter text)
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**Recommendation(s)**

The Board is asked to **note** the attached report which is due for publication and consider the implications for our wider work.

**Executive Summary**

The annual report on diversity data is an important component of the BSB's statutory and regulatory responsibilities. Reliable data is essential to inform our work to promote an independent, strong, diverse and effective legal profession and meet our legal obligations.

Disclosure rates continue to improve, which correspondingly improves the robustness of our evidence base. However, there remain areas where the level of disclosure to the BSB is below what we would like. We continue to seek to improve this.

We know from our data that:

- Compared with the general population, women, BAME people, and people who did not attend fee-paying schools are under-represented;
- The same is likely to be the case for disabled people;
- The number of female and/or BAME pupils is generally representative of the numbers of women and BAME working age population in the UK, however this is not the case for the Bar as a whole, particularly at QC level.

**Risk**

The collection and publication of diversity data for the profession provides the BSB with an evidence base which is used to inform policies aimed at widening access to the profession and promoting diversity and social mobility. Analysis of the data enables the BSB to identify trends and is key to assisting the BSB in meeting its Public Sector Equality Duties. Failure to collect and publish diversity data would leave the BSB without an equality and diversity evidence base for its decision making and would be lacking in transparency.

The BSB Regulatory Risk Index lists a 'lack of a diverse and representative profession' as a significant market risk. The annual production of the Diversity Data Report is a key source of evidence to help the BSB to mitigate this risk.

There are two key compliance issues relevant to the publication of the Diversity Data Report:

- Failure to comply with the Equality Act 2010 Specific Duties Regulations could lead to the BSB being issued with a compliance notice; and
- Failure to meet the requirements contained within LSB statutory guidance about publication of aggregated diversity data could lead to enforcement action.

**Resources (Finance, IT, HR)**

Design and implementation costs for the *MyBar* portal are included in the agreed budget for Resources Group.

**Equality & Diversity**

The publication of diversity data and the changes to the *MyBar* portal will promote and advance equality and diversity. Accessibility issues will be taken into consideration when publishing diversity data and when designing the monitoring section for the new online portal.

## Diversity at the Bar Report

### Background

1. The BSB has statutory and regulatory duties to publish annual reports on the diversity of the profession. In addition to our duties under the Equality Act 2010, one of the outcomes set by the Legal Services Board (LSB) for the frontline regulators is that the regulator continues to build a clear and thorough understanding of the diversity profile of its regulated community (beginning at entry), how this changes over time and where greater diversity in the workforce needs to be encouraged. Our annual reports on the diversity of the profession form an important part of our evidence base for encouraging an independent, strong, diverse and effective legal profession. It is therefore important that the Board notes progress and trends.
2. The completion rates for BSB's diversity monitoring have historically been low in some areas. This has improved year-on-year, albeit slowly. The LSB has previously commented on the need to improve the collection and reporting of diversity data at the Bar. Its recent summary report on the legal services regulators' progress against diversity outcomes has welcomed improvements made in recent years.
3. For this year's report, the BSB Research Team extracted anonymised diversity data from the CRM database on 1<sup>st</sup> December 2018. The Diversity Data Report at is attached at Annex A for information but a brief summary is presented here.

### Diversity Data Report 2018

#### Summary of data

4. Completion rates across all monitoring categories have increased by an average of around seven percentage points since 2017, with year on year increases of over 8 percentage points for 'disability'; 'religion or belief'; 'sexual orientation'; 'type of school attended'; 'first generation to attend university'; 'caring responsibilities for children'; 'caring responsibilities for others'.
5. The BSB has relatively high levels of data in relation to gender, ethnicity and age, and hence some meaningful conclusions can be drawn. The response rates are lower in other areas and therefore the conclusions we can draw are less reliable. Gender identity has been collected this year for the first time and has the lowest level of disclosure (30.1%) followed by sexual orientation (43.1%), religion and belief (43.7%), social economic background<sup>1</sup> and caring responsibilities<sup>2</sup> (approx.45-47%) and disability (49%).
6. The reliability of the data depends upon whether those that have responded are a representative sample of the entire practising Bar. This presents some limitations for the BSB as it has statutory and regulatory duties to promote equality and diversity in relation to all the protected characteristics listed in the Equality Act 2010. There is no set figure for the point at which the disclosure rates of diversity monitoring data become reliable, but with a sample size of approximately 16,000 a response rate of around 50% would be considered useful as an evidence base for starting to develop policy. Despite the low response rates for some questions, the data can still be used to help inform actions in those areas where we know - through other research and evidences bases - that social inequality exists.

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<sup>1</sup> Includes type of school attended and whether the first generation of a family to attend university

<sup>2</sup> Includes caring for children or others

7. The Diversity Data Report 2018 reaches four main conclusions:
- a. There continues to be an underrepresentation (compared with the general population) at the Bar of women, BAME people, and people who did not attend fee-paying schools.
  - b. It is highly likely that there is an underrepresentation of disabled people at the Bar, given that the response rate to this question is nearing a reliable level. This is important for the BSB to note because the duty to make reasonable adjustments for disabled people is anticipatory for public bodies, i.e. we have a positive duty to consider in advance what disabled people might reasonably need.
  - c. The number of pupils that are female and/or BAME is generally representative of the numbers of women and BAME working age population in the UK, however this is not the case for the Bar as a whole, particularly at QC level. This suggests that the barriers experienced by women and BAME practitioners relate more to retention than recruitment.
  - d. There is an overrepresentation among practitioners of people who primarily attended fee-paying schools. Although only 47.0% of practitioners responded to this question, the proportion of those who went to fee-paying schools is almost double the level within the UK population as a whole. If all of the barristers who did not respond to this question had attended state schools and were included in the analysis, this point would still stand.
8. The findings of this Diversity Data Report provide an evidence base which will be used to inform a range of BSB workstreams, in particular the setting and monitoring of organisational equality objectives, the BSB Equality Strategy and informing the Risk Outlook. The report is also used to monitor the impact of BSB policies through Equality Impact Assessments.

#### Action to improve the quality of diversity data

9. It is accepted that it can take years for a profession to become familiar and comfortable with providing diversity data on a range of strands. Although it is positive to see that completion rates have increased every year since 2014, the current rates in some areas remain too low for statistical analysis to be undertaken without better understanding of the missing data.
10. The new online portal *MyBar* launched in February 2018 has enabled us to do a number of things to promote disclosure:
- a. The monitoring page is located in a prominent place on the *MyBar* portal and is being embedded within the authorisation to practise process to improve visibility rather than being a standalone page that has to be navigated to separately. Completion of the monitoring questions remain voluntary.
  - b. Explanatory text on the monitoring page sets out the importance to the BSB of data collection, the ways in which the data will be used, and a reassurance about data anonymity.
  - c. A reminder for individuals to update their diversity data will be included on the automatic email that is sent to barristers once they have completed the 2019 authorisation process.

**Publication and promotion of diversity data**

11. The Diversity Data Report will be published in the Equality and Diversity section of the BSB website. It is intended that the data will be publicised through the BSB's monthly *Regulatory Update* email newsletter, a press release and the BSB Twitter feed.

**Regulatory objectives**

12. The collection and publication of diversity data for the Bar relates directly to the BSB's regulatory objective of "encouraging an independent, strong, diverse and effective legal profession".

**Annexes**

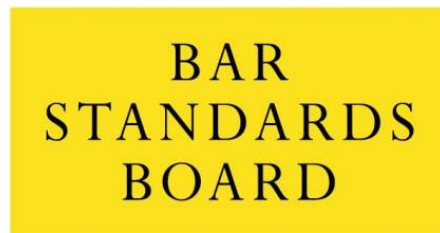
Annex 1: Report on Diversity at the Bar, December 2018

**Lead responsibility:**

Amit Popat, Head of Equality and Access to Justice







REGULATING BARRISTERS

## **Diversity at the Bar 2018**

**A summary of the latest available diversity data for the Bar**

**Published January 2019**

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## 1. Executive Summary

This report presents a summary of the latest available diversity data for the Bar. The report assists the Bar Standards Board (BSB) in meeting its statutory duties under the Equality Act 2010 and sets out an evidence base from which relevant and targeted policy can be developed.

### Response Rates

- Response rates continue to increase across all categories except for gender (see Table 2 for a comparison to 2017), with an increase in response rate of more than eight percentage points (pp) for seven of the 10 characteristics reported on. The response rate is highest for gender at 99.94 per cent and lowest for gender identity at 30.1 per cent.

### Gender

- The proportion of women at the Bar (covering pupils, practising Queen's Counsel - QC - and practising non-QC barristers) has increased 0.4 percentage points (pp) since the snapshot taken in December 2017. As of December 2018, women constituted 37.4 per cent of the Bar compared to an estimate of 50.3 per cent of the UK working age population.
- The proportion of female QCs has increased, from 14.8 per cent in December 2017 to 15.8 per cent in December 2018.
- As observed in 2016 and 2017, there is a greater proportion of female pupils in comparison to male pupils (51.7% vs 48.3%).
- This is the first time we have reported on gender identity in the Diversity at the Bar Report. Response rates are lower than for any of the other characteristics reported on.

### Ethnicity

- The percentage of Black, Asian and Minority Ethnic (BAME) barristers at the Bar has increased 0.3pp since December 2017 to 13 per cent, compared to an estimate of 15.5 per cent of the working age population in England and Wales, with the percentage of QCs from BAME backgrounds increasing 0.6pp year on year (to 7.8%). The proportion of pupils from BAME backgrounds has increased slightly (by 0.2pp).
- There is still a disparity between the overall percentage of BAME barristers across the profession (13%), and the percentage of BAME QCs (7.8%). This may reflect the lower percentage of BAME barristers entering the profession in past years but may also suggest there may be an issue in the progression of BAME practitioners at the Bar, although the gap has narrowed by 0.3pp in comparison to December 2017 (the same trend was seen in December 2017 compared to December 2016).

### **Disability**

- There still appears to be an underrepresentation of disabled practitioners at the Bar. Although there is a relatively low response rate of 49.0 per cent, of those that have provided information on disability status to us, 5.9 per cent of the Bar disclosed a disability. This is substantially lower than the percentage of disabled people in the employed working age UK population estimated at 12.4 per cent.

### **Other**

- Despite a relatively low response rate (47.0%) to this question, the data suggest that a disproportionate number of barristers attended a UK fee-paying secondary school between the ages of 11-18. Even if all of the barristers who chose not to respond to this question had gone to state schools, the proportion of barristers who went to fee-paying schools is higher than in the wider population; with 15.5 per cent (including non-respondents) having primarily attended a fee-paying school between 11-18, compared to approximately 7 per cent of school children in England at any age, and 10.1 per cent of UK domiciled young full-time first degree entrants in the UK in 2015/16. Of those that provided information on school attended, around 33 per cent attended an independent school in the UK.

## 2. Introduction

The BSB is committed to providing clear and transparent statistical diversity data at every stage of a barrister's career. This diversity data report is published annually, in line with the Specific Duties Regulations of the Equality Act 2010 and the statutory guidance of the Legal Services Board. It is a summary of the diversity data on practising barristers available to the BSB, as at 1 December 2018.

This report provides an overview of diversity at the Bar,<sup>1</sup> and establishes evidence for both policy development and assessing the effectiveness of current BSB initiatives aimed at increasing equality and diversity at the Bar. All data are presented anonymously.

Unless stated otherwise, all analysis in this report is broken down by seniority. Table 1 (below) shows the simple breakdown of practising members of the profession.

**Table 1: Total number of people at the Bar (numbers)**

Seniority	Numbers
Pupil	417
Non-Queen's Counsel (Non-QC) <sup>2</sup>	14,836
Queen's Counsel (QC)	1,762
<b>Total</b>	<b>17,015</b>

There are three sections to the diversity analysis of the profession: protected characteristics, socio-economic background, and responsibilities regarding caring for children and others.

<sup>1</sup> Usage of the term 'the Bar' in this report refers only to practising barristers and pupils (including non-practising first six pupils) as of 1 December 2018.

<sup>2</sup> Usage of the term "non-QC" in this report refers to practising junior barristers; a barrister who has not taken silk

### 3. Methodology

The data for practitioners<sup>3</sup> in this report are from the BSB's records.

#### BSB Records

Diversity data on pupils are collected through the Pupillage Registration Form (PRF), which must be completed before an individual commences their pupillage. The data from this form are collected annually, simultaneously with the data collection for the rest of the profession to ensure consistency.

The Bar Council Records Department receives data on the profession via the online "Authorisation to Practise" system, MyBar, which was introduced in 2018 and superseded the previous system, Barrister Connect. MyBar enables barristers to renew their practising certificates online and includes a section which allows barristers to input their diversity monitoring data.

The rate of completion varies for individual monitoring strands, as each question is voluntary and some can be left blank if desired. Barristers can access the MyBar portal at any time and update their diversity monitoring information. The diversity monitoring information used in this report was extracted from our database on 1 December 2018 and represents a snapshot of the profession on this date.

In general, all percentages have been rounded to one decimal place, so in some cases the values may not total 100 per cent.

#### 3.1. Response Rates

The response rate once again increased across all collected data in 2018, except for a very small decrease for gender. The year on year increases from 2017 were the largest seen since publication of this report began in 2015 for disability; religion or belief; sexual orientation; type of school attended; first generation to attend university; caring responsibilities for children; and caring responsibilities for others.

There is currently only one category where response rates are less than 40 per cent of the Bar, which is gender identity. However, while the trend in response rates is positive, less than 50 per cent of the Bar have responded to seven of the 11 questions monitored in this report, so there is still some way to go. The following diversity information was not provided in any way (including prefer not to say) by over 50 per cent of barristers:

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<sup>3</sup> Usage of the term "practitioners" in this report refers to pupils, junior barristers, and QCs practising at the Bar as of 1 December 2018.

- Disability
- Religion or belief
- Sexual orientation
- Type of school attended
- First generation to attend university
- Caring responsibilities for children
- Caring responsibilities for others
- Gender identity

This report is the first in which we have reported on gender identity, in line with recent Legal Services Board requirements of legal regulators.

Each question on both Barrister Connect and the PRF contains a 'prefer not to say' option, allowing individuals the option of giving a response without disclosing any information. 'Prefer not to say' is counted as a response in the rates listed below.

**Table 2: Response Rates in 2017 and 2018 (as a percentage of total barristers)**

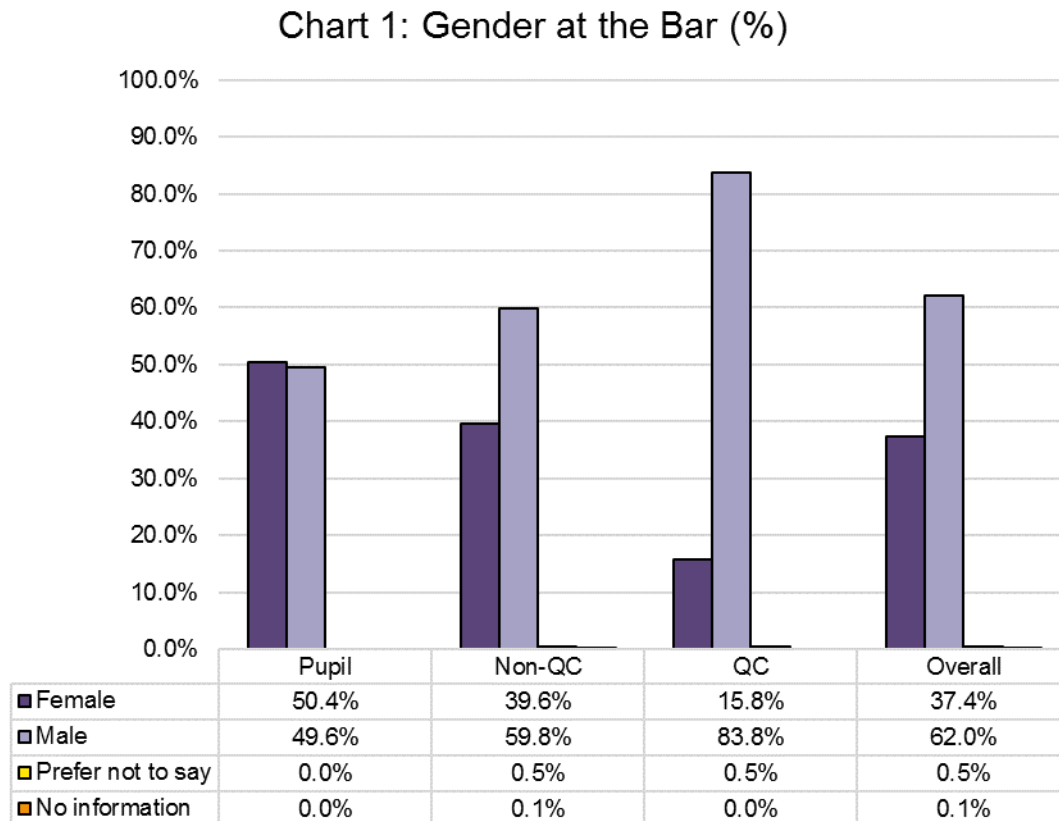
Category	2017	2018	Percentage point difference
Gender	99.97%	99.94%	-0.03
Gender identity	-	30.1%	-
Ethnicity	92.5%	93.4%	0.9
Disability	40.2%	49.0%	8.8
Age	82.5%	84.7%	2.2
Religion or belief	34.1%	43.7%	9.6
Sexual orientation	34.8%	43.1%	8.3
Type of school attended	36.7%	47.0%	10.3
First generation to attend university	34.9%	45.0%	10.1
Caring responsibilities for children	37.2%	46.9%	9.7
Caring responsibilities for others	36.1%	45.4%	9.3

## 4. Protected Characteristics

### 4.1. Gender and Gender Identity

#### Gender

Chart 1 shows the percentage of practitioners at the Bar by gender and level of seniority.



- The percentage of women at the Bar overall increased by 0.4pp from December 2017 to December 2018, the same percentage point increase seen from December 2016 to December 2017.
- The greatest percentage point increase for female representation at the Bar across the groups has been for QCs (14.8% to 15.8%; a difference of 1.0pp), however, it is noteworthy that the overall proportion of female QCs is low (15.8%) in comparison to the percentage of female barristers at the Bar overall (37.4%). This compares to an estimate of 50.3 per cent of the UK working age (16-64) population being female as of Q3 2018.<sup>4</sup>
- For female non-QC barristers, the year on year increase is 0.4pp (39.2% to 39.6%).

<sup>4</sup> Calculated from the 'LFS: Population aged 16-64: Female: Thousands: SA', and 'LFS: Population aged 16-64: UK: Male: Thousands: SA' datasets published by the Office for National Statistics on ons.gov.uk



## Part 1- Public

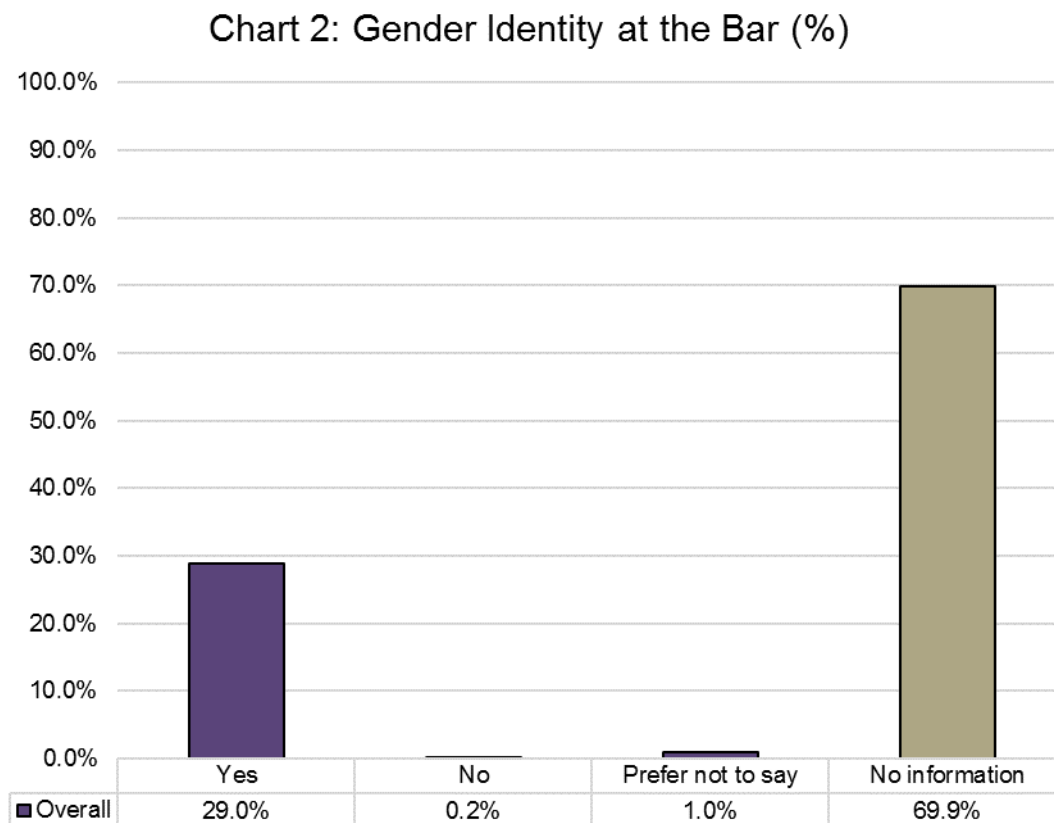
- The percentage of female pupils has decreased by 1.3pp but is still greater than 50 per cent of pupils overall, meaning that, in line with 2016 and 2017, the percentage of female pupils is greater than that of male pupils (50.4% vs 49.6%).<sup>5</sup>

**Table 3: Gender at the Bar (numbers)**

	Pupils	Non-QC	QC	Total
<b>Female</b>	210	5880	278	6368
<b>Male</b>	207	8872	1476	10555
<b>Prefer not to say</b>	-	73	8	81
<b>No information</b>	-	11	-	11
<b>Total</b>	417	14836	1762	17015

**Gender Identity**

Chart 2 shows the percentage of practitioners at the Bar by response to the following question on MyBar: “Is your gender identity the same as that which you were assigned at birth?”.



<sup>5</sup> More information on the demographics of pupils that have entered onto pupillage following the BPTC can be found in Part 4 of the BPTC Key Statistics Report: <https://www.barstandardsboard.org.uk/media-centre/research-and-statistics/research-reports/regular-research-publications/>

## Part 1- Public

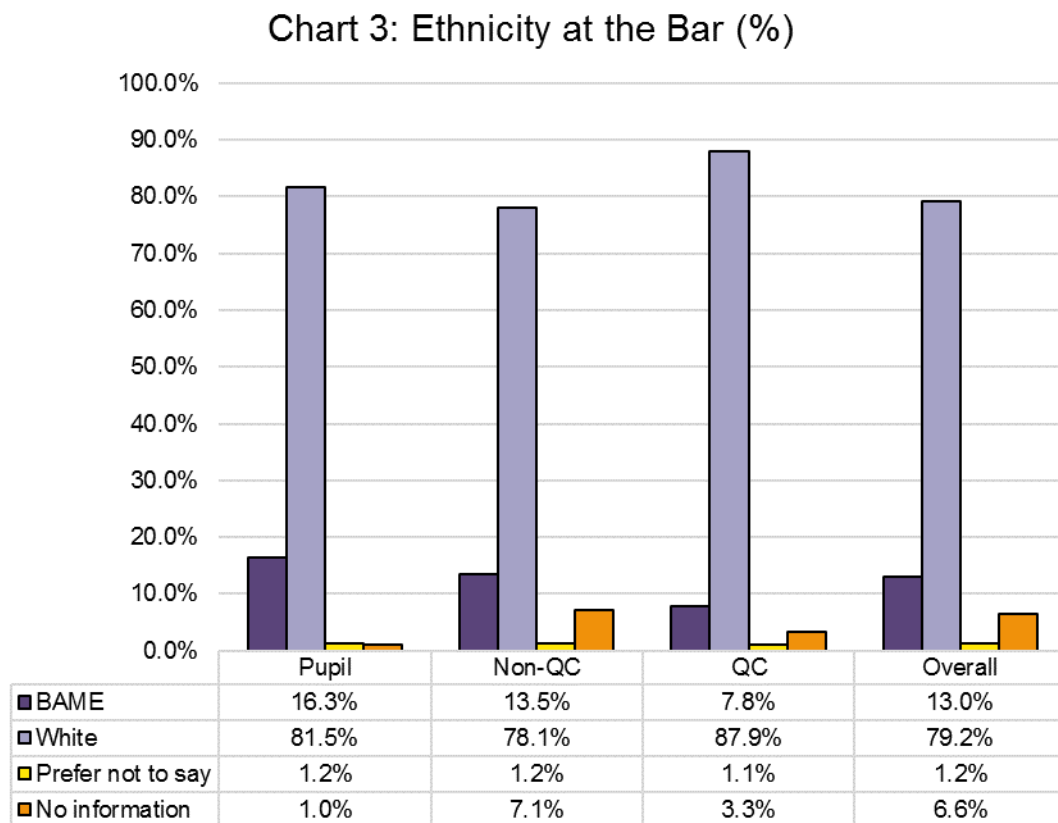
- 69.9 per cent of practitioners had not provided a response on gender identity on MyBar. When including non-respondents, around 0.2 per cent of practitioners had a different gender identity to the one they were assigned at birth.

**Table 4: Gender identity at the Bar (numbers)**

Gender Identity	Pupils	Non-QC	QC	Overall
Yes	7	4413	507	4927
No	-	24	4	28
Prefer not to say	-	148	15	163
No information	410	10251	1236	11897
Total	417	14836	1762	17015

## 4.2. Ethnicity

Chart 3 shows the percentage of practitioners at the Bar by ethnic background and level of seniority.



- The overall percentage of BAME barristers at the Bar has increased by 0.3pp compared to December 2017, and 0.8pp compared to December 2016, to 13 per cent.
- The percentage of BAME QCs has increased by 0.6pp from December 2017 (which equates to an increase of 1.4pp compared to December 2016).
- The percentage of BAME barristers has increased by 0.3pp for non-QC barristers.

## Part 1- Public

- The proportion of BAME pupils showed an increase of 0.2pp compared to December 2017, giving 16.3 per cent of pupils from BAME backgrounds, the same percentage as that seen in December 2016.
- When excluding those that have not provided information, around 13.9 per cent of the Bar overall are from a BAME background. This compares to around 15.5 per cent of the 16-64 working age population in England and Wales as of 2011.<sup>6</sup>

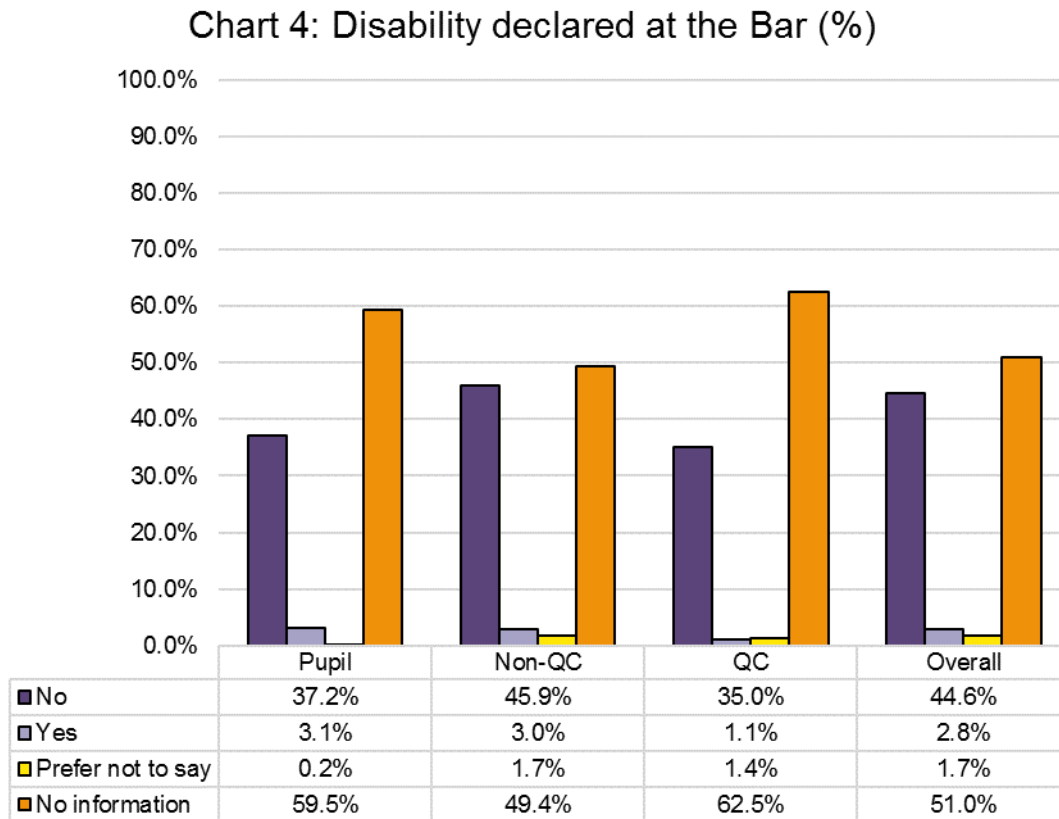
**Table 5: Ethnicity at the Bar (numbers)**

	Pupils	Non-QC	QC	Total
<b>Asian/Asian British</b>	<b>30</b>	<b>985</b>	<b>63</b>	<b>1078</b>
Asian/Asian British - Bangladeshi	3	82	2	87
Asian/Asian British - Chinese	3	67	5	75
Asian/Asian British - Indian	14	436	34	484
Asian/Asian British - Pakistani	7	252	16	275
Any other Asian background	3	148	6	157
<b>Black/Black British</b>	<b>13</b>	<b>458</b>	<b>18</b>	<b>489</b>
Black/Black British - African	8	232	6	246
Black/Black British - Caribbean	4	185	9	198
Any other Black background	1	41	3	45
<b>Mixed/Multiple Ethnic Groups</b>	<b>18</b>	<b>416</b>	<b>29</b>	<b>463</b>
White and Asian	7	94	13	114
White and Black African		49		49
White and Black Caribbean	3	52	2	57
White and Chinese	1	42	4	47
Any other mixed/multiple background	7	179	10	196
<b>Other ethnic group</b>	<b>7</b>	<b>150</b>	<b>27</b>	<b>184</b>
Arab	2	12	-	14
Any other ethnic group	5	138	27	170
<b>White</b>	<b>340</b>	<b>11582</b>	<b>1548</b>	<b>13470</b>
White - English/Welsh/Scottish/Northern Irish/British	304	10612	1462	12378
White - Gypsy or Irish Traveller	-	2	-	2
White - Irish	10	348	30	388
Any other White background	26	620	56	702
<b>Prefer not to say</b>	<b>5</b>	<b>185</b>	<b>19</b>	<b>209</b>
<b>No information</b>	<b>4</b>	<b>1060</b>	<b>58</b>	<b>1122</b>
<b>Total</b>	<b>417</b>	<b>14836</b>	<b>1762</b>	<b>17015</b>

<sup>6</sup> Calculated from figures published by the Department for Work and Pensions at <https://www.ethnicity-facts-figures.service.gov.uk/british-population/demographics/working-age-population/latest>

### 4.3. Disability

Chart 4 shows the percentage of practitioners at the Bar by declared disability and level of seniority.



- 2.8 per cent of the Bar had declared a disability as of December 2018, with 3.1 per cent of pupils, three per cent of non-QC barristers and 1.1 per cent of QCs declaring a disability. The overall year on year percentage point increase for those declaring a disability is 0.6 per cent (2.2% to 2.8%). Much of the increase is possibly due to a sharp increase in response rates, although notably, the response rate for pupils is more than 30pp lower compared to December 2017.
- When excluding those that had not provided information, 5.9 per cent of non-QC barristers, 7.7 per cent of pupils, 2.9 per cent of QCs, and 5.7 per cent of the overall Bar had a declared disability: in comparison, it is estimated that around 12.4 per cent of the employed working age population (those aged 16-64) has a declared disability as of July-September 2018.<sup>7</sup>
- This suggests that the percentage of those with a declared disability may decrease by level of seniority. Overall, when excluding non-responses the proportion of those with a declared disability at the Bar has increased year on year by 0.6pp, although it has decreased for pupils by 0.7pp and stayed the same for QCs. However, the overall disclosure rate is low at 49.0 per cent, meaning these statistics may not be reliable.

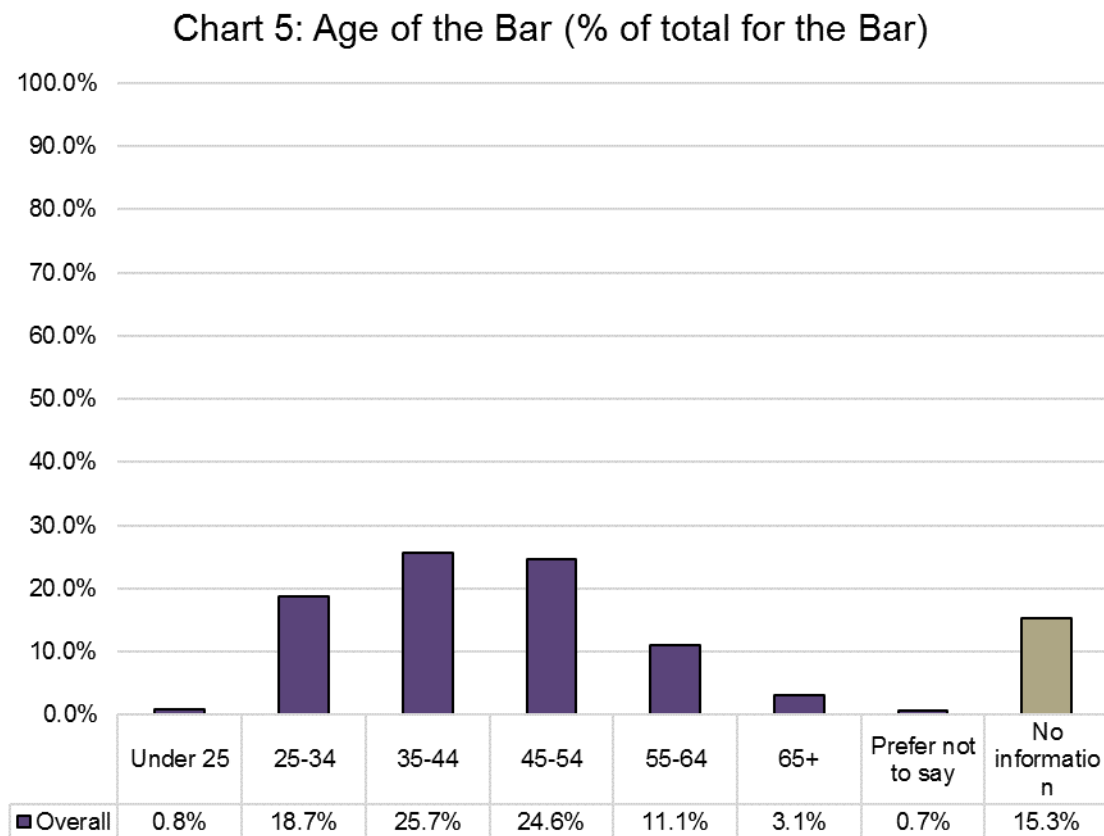
<sup>7</sup> Calculated for Jul-Sep 2018 from Office for National Statistics datasets: A08: Labour market status of disabled people using GSS Standard Levels (People).

**Table 6: Disability at the Bar (numbers)**

	Pupils	Non-QC	QC	Total
No disability declared	155	6812	617	7584
Disability declared	13	442	19	474
Prefer not to say	1	257	24	282
No information	248	7325	1102	8675
Total	417	14836	1762	17015

#### 4.4. Age

Chart 5 shows the percentage of practitioners at the Bar by age band.



Of those that have provided information on age:

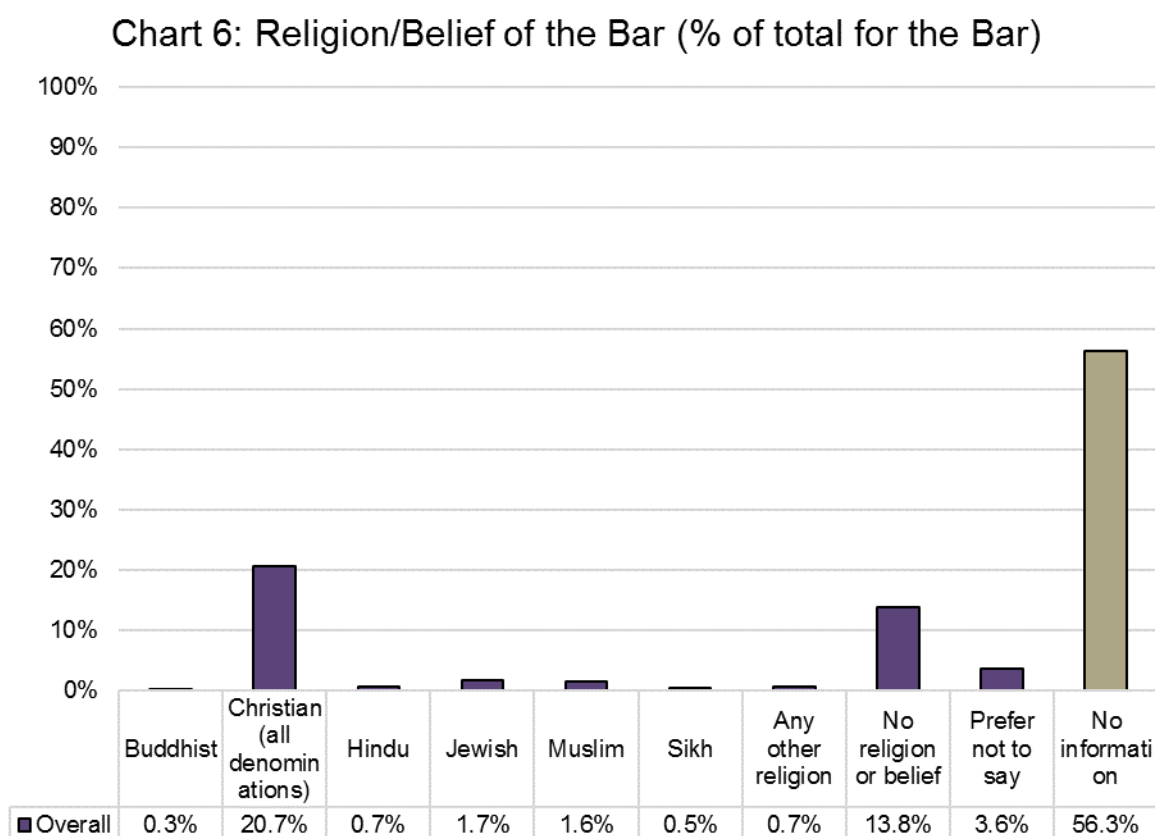
- Those between the ages of 25 and 54 make up around 82 per cent of the Bar.
- Just over 30 per cent of barristers are in the 35-44 age range, and just under 30 per cent are in the 45-54 age range.
- In terms of percentage point difference between December 2018 and December 2017, there is a greater proportion of barristers in the 55-64 and 65+ age ranges in 2018 in comparison to 2017 (0.9pp and 2.1pp increases), and a smaller proportion of barristers in the 25-34, 35-44 and 45-54 age ranges in comparison to December 2017 (-0.3pp, -1.4pp, -1.3pp decreases). There is no real change in the proportion of those at the Bar under 25.

**Table 7: Age at the Bar (numbers)**

	Pupils	Non-QC	QC	Total
<b>Under 25</b>	103	38	-	141
<b>25 - 34</b>	269	2917	1	3187
<b>35 - 44</b>	26	4263	86	4375
<b>45 - 54</b>	11	3552	623	4186
<b>55 - 64</b>	4	1575	303	1882
<b>65+</b>	-	418	117	535
<b>Prefer not to say</b>	1	101	12	114
<b>No information</b>	3	1972	620	2595
<b>Total</b>	417	14836	1762	17015

## 4.5. Religion and Belief

Chart 6 shows the religion or belief of practitioners at the Bar.



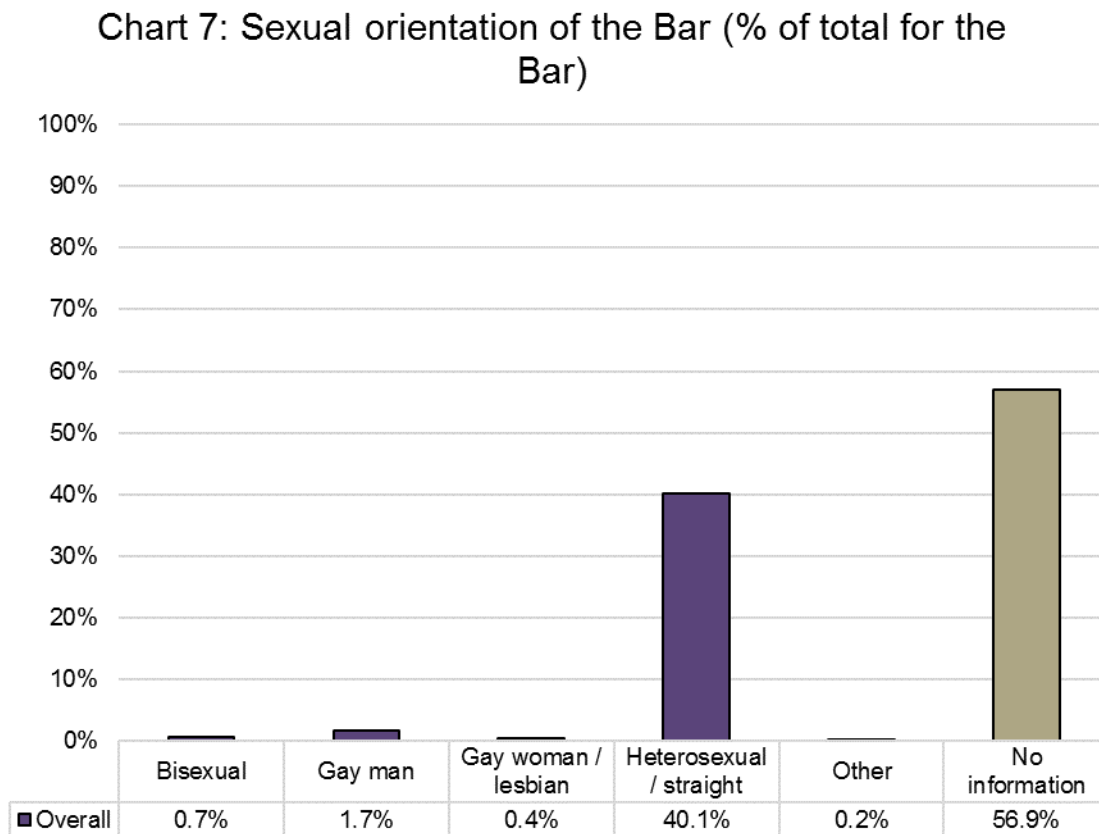
- Over half of the Bar have not yet provided information on religion or belief through MyBar, although the response rate is up by almost 10 percentage points year on year.
- Including those that have not provided information, the largest group at the Bar overall by religion or belief are Christians (20.7%) followed by those with no religion or belief (13.8%), although for pupils this trend is reversed.

**Table 8: Religion and Belief at the Bar (numbers)**

	Pupils	Non-QC	QC	Total
<b>Buddhist</b>	1	43	2	46
<b>Christian (all denominations)</b>	50	3170	299	3519
<b>Hindu</b>	2	113	5	120
<b>Jewish</b>	2	232	60	294
<b>Muslim</b>	9	260	8	277
<b>Sikh</b>	2	83	6	91
<b>Other religion/belief</b>	3	104	5	112
<b>No religion/belief</b>	72	2121	159	2352
<b>Prefer not to say</b>	5	559	57	621
<b>No information</b>	271	8151	1161	9583
<b>Total</b>	417	14836	1762	17015

#### 4.6. Sexual Orientation

Chart 7 shows the sexual orientation of practitioners at the Bar.



- The response rate for sexual orientation has increased by over 8 per cent in comparison to December 2017, although it is the monitoring category with the second lowest response compared to the ten others, with 43.1 per cent providing some information.

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- Excluding those that have not provided information, 7.9 per cent of pupils, 6.6 per cent of non-QCs, and 4.3 per cent of QCs provided their sexual orientation as one of Bisexual; Gay man; or Gay woman/Lesbian.

**Table 9: Sexual Orientation of the Bar (numbers)**

	Pupils	Non-QC	QC	Total
<b>Bisexual</b>	2	104	6	112
<b>Gay man</b>	3	275	14	292
<b>Gay woman/Lesbian</b>	6	56	5	67
<b>Heterosexual</b>	129	6141	557	6827
<b>Other</b>	-	26	3	29
<b>Prefer not to say</b>	-	-	-	-
<b>No information</b>	277	8234	1177	9688
<b>Total</b>	417	14836	1762	17015



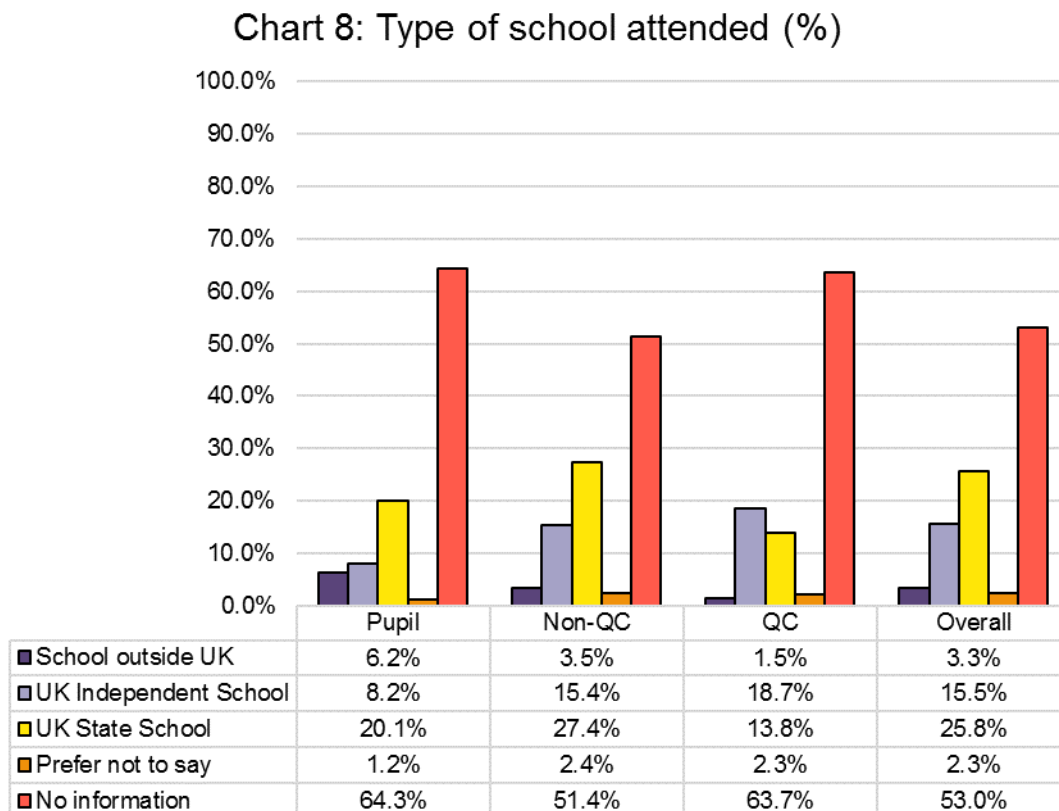
## 5. Socio-Economic Background

Socio-economic background is not a protected characteristic under the Equality Act 2010. However, where members have a balanced socio-economic profile it can be a good indicator of a meritocratic profession.

Unfortunately, accurately measuring socio-economic background can be challenging, and there is no universal proxy for gathering such data. The BSB uses the socio-economic questions recommended by the Legal Services Board, which are included on the MyBar monitoring questionnaire and on the PRF. These questions use educational background of the barrister, and of their parents, as a proxy for determining a barrister's social class. There is a strong correlation between a person's social background and a parent's level of educational attainment – particularly when choosing the type of school to attend, type of university, and career choice.<sup>8</sup>

### 5.1. Type of School Attended

Chart 8 shows a summary of the type of school mainly attended between the ages of 11-18 for practitioners at the Bar.



- Although there is still a high percentage of non-responses (53%), the data suggest that a disproportionate amount of the Bar attended a UK independent school. The figures show that even if all of the barristers who chose not to

<sup>8</sup> Bukodi, E. and Goldthorpe, J.H., 2012. Decomposing 'social origins': The effects of parents' class, status, and education on the educational attainment of their children. *European Sociological Review*, 29(5), pp.1024-1039.

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respond had gone to state schools, the proportion of barristers who went to fee-paying schools would be higher than in the wider population, with 15.5 per cent (including non-respondents) having primarily attended a fee-paying school between 11-18, compared to approximately 7 per cent of school children in England at any age,<sup>9</sup> and 10.1 per cent of UK domiciled young full-time first degree entrants in the UK in 2015/16 attending a fee-paying institution prior to university.<sup>10</sup>

- Of those that provided information on school attended, around 33 per cent attended an independent school in the UK, the same as seen in 2017. It is worth noting that this is in line with that seen for those that enrolled on the Bar Professional Training Course (BPTC) from 2013-2016: Across the 2013/14-2016/17 academic years, there was an average of 32 per cent of UK domiciled students on the BPTC having attended an independent school.<sup>11</sup> This suggests that the high percentage of those at the Bar who attended an independent school in the UK is generally due to the influence of factors prior to vocational study to become a barrister.
- The overall response rate for this information has increased 10.3pp year on year (to 47.0%).

**Table 10: Type of School Attended by the Bar (numbers)**

	Pupils	Non-QC	QC	Total
<b>Attended school outside the UK</b>	26	516	27	569
<b>UK independent school</b>	34	2282	329	2645
<b>UK state school</b>	84	4059	244	4387
<b>Prefer not to say</b>	5	349	40	394
<b>No information</b>	268	7630	1122	9020
<b>Total</b>	417	14836	1762	17015

## 5.2. First Generation to Attend University

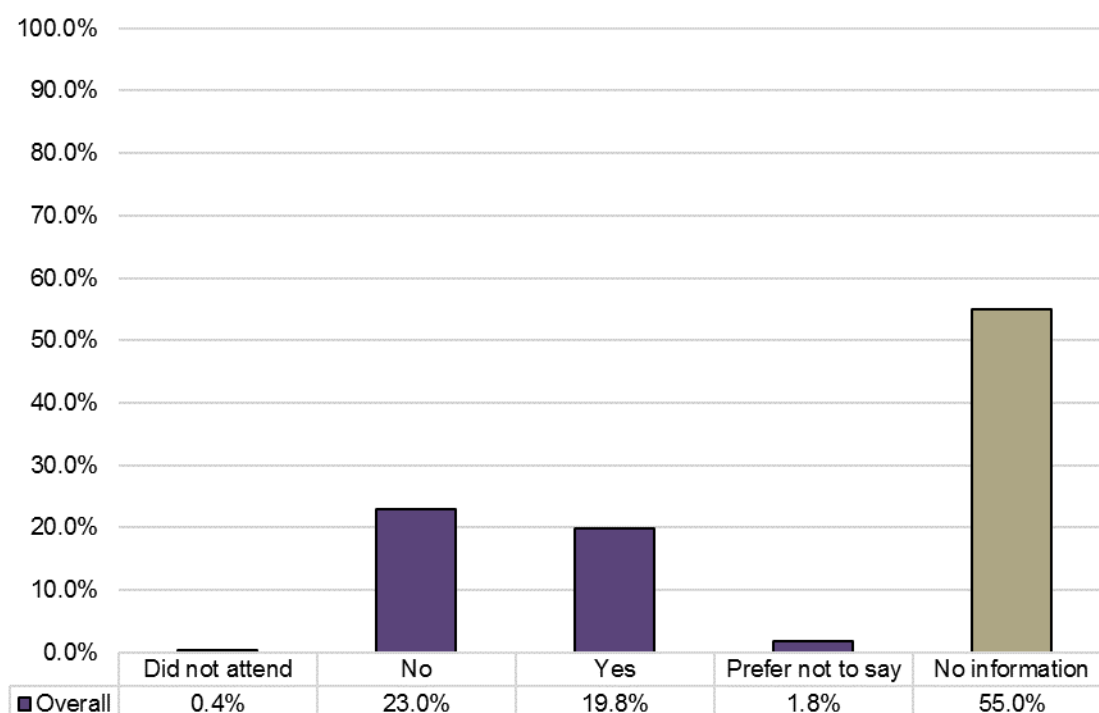
Chart 9 shows whether members of the profession were the first generation to attend university or not. On the MyBar monitoring questionnaire, the question asked is: “If you went to university (to study a BA, BSc course or higher), were you part of the first generation of your family to do so?”

<sup>9</sup> Independent Schools Council: Research. <https://www.isc.co.uk/research/> (accessed 10 January 2018). We acknowledge that this comparison is not a direct one; we are lacking data on type of school mainly attended between the ages of 11-18 for England and Wales only.

<sup>10</sup> Higher Education Statistics Authority: Widening participation summary: UK Performance Indicators 2015/16. <https://www.hesa.ac.uk/data-and-analysis/performance-indicators/widening-participation-summary> (accessed 12 January 2018)

<sup>11</sup> Data calculated from monitoring question for the Bar Course Aptitude Test on school attendance between 11-18 and data provided to the BSB by BPTC providers.

Chart 9: First generation to attend university (% of total for the Bar)



- There has been an increase in the response rate to this question of over 10pp this year (to 45.0%).
- The increase in response rate (from 34.9% to 45.0%) has been evenly shared between those answering “Yes” and those answering “No”. When excluding non-responses, the statistics are very similar to 2016, with around 0.8 per cent of the Bar having not attended university (compared to one per cent in 2017), 51.2% not being the of first generation to attend university (compared to 51.0% in 2017), 44.0% being of the first generation to attend university (compared to 44.2% in 2017), and four per cent preferring not to say.

**Table 11: First Generation to Attend University at the Bar (numbers)**

	Pupils	Non-QC	QC	Total
<b>Did not attend university</b>	-	49	11	60
<b>No</b>	39	3571	311	3921
<b>Yes</b>	25	3067	282	3374
<b>Prefer not to say</b>	4	273	30	307
<b>No information</b>	349	7876	1128	9353
<b>Total</b>	417	14836	1762	17015

## 6. Caring Responsibilities

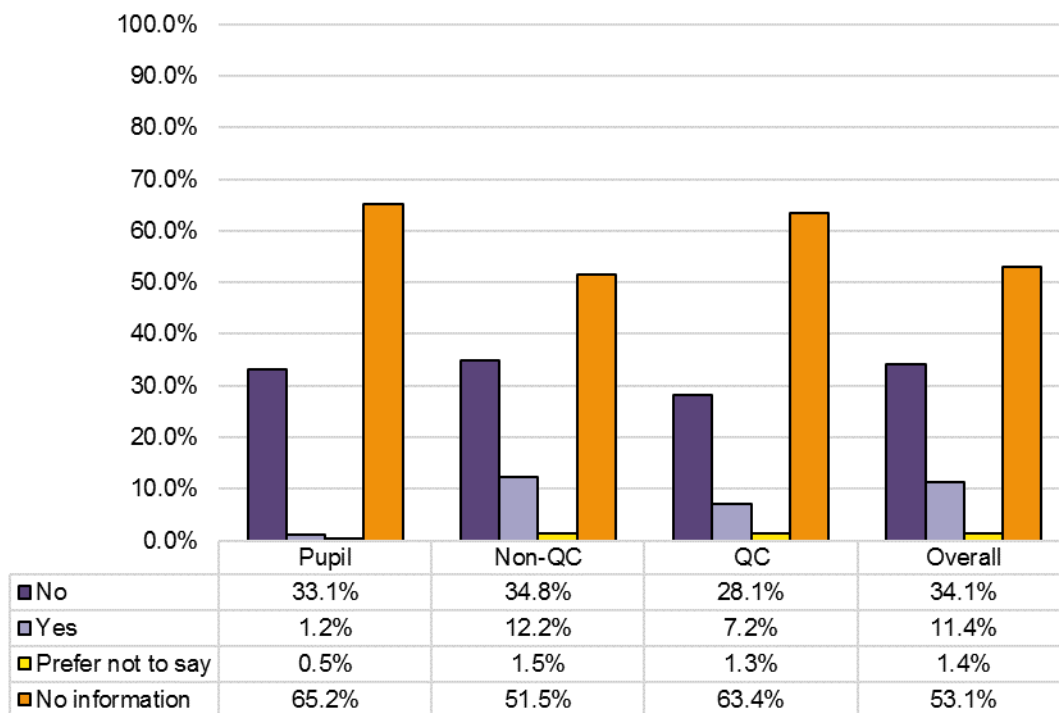
The caring responsibilities categories used in this report are those provided to the BSB by the Legal Services Board. These questions are aimed at ascertaining whether an individual has child or adult dependants.

Information on caring responsibilities of children is difficult to benchmark against the UK working age population.

### 6.1. Caring Responsibilities for Children

Chart 10 shows a summary of childcare responsibilities at the Bar. On the MyBar monitoring questionnaire, the question asked is: “Are you a primary carer for a child or children under 18?”

Chart 10: Primary caring responsibilities for children  
(%)



- The percentage of those providing a response to this question has increased 9.7pp year on year.
- When excluding non-responses, around one in four at the Bar have primary caring responsibilities for one or more children.

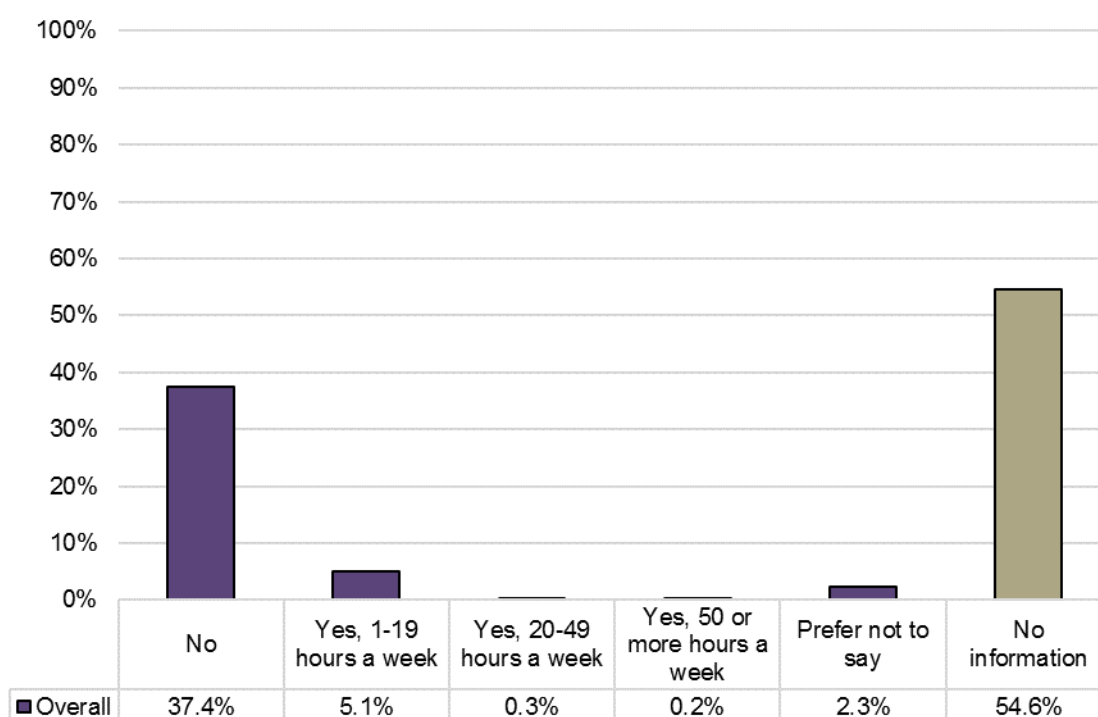
**Table 12: Caring Responsibilities for Children for those at the Bar (numbers)**

	Pupils	Non-QC	QC	Total
<b>No</b>	138	5162	495	5795
<b>Yes</b>	5	1814	127	1946
<b>Prefer not to say</b>	2	221	23	246
<b>No information</b>	272	7639	1117	9028
<b>Total</b>	417	14836	1762	17015

## 6.2. Caring Responsibilities for Others

Chart 11 below shows practitioners at the Bar who have caring responsibilities for people other than children, as a percentage of the whole profession. On the MyBar monitoring questionnaire, the question asked is “Do you look after, or give any help or support to family members, friends, neighbours or others because of either long-term physical or mental ill-health/disability or problems related to old age (not as part of your paid employment)?”

**Chart 11: Caring responsibilities for others (% of total for the Bar)**



- Including those that have not provided information for this question, 4.4 per cent of the Bar provide care for others for one hour a week or more.
- Of those that provided a Yes/No response, as of December 2018 the majority of the Bar do not provide care for others, and around 14 per cent of respondents at the Bar provided care for another person for 1 or more hours per week. This is in line with the proportion of those in work in the UK who are carers according to

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figures published by the Carers Trust, which state that around one in eight (12.5% of) UK workers provide care for another, not including primary care of children.<sup>12</sup>

- Of those that do provide care for others, just under nine in ten provide care for between 1-19 hours a week.
- Of those that have provided a response, the proportion that provide care for another increases with level of seniority, going from around two per cent of pupils to around 11 per cent of non-QCs, and around 15 per cent of QCs.

**Table 13: Caring Responsibilities for Others for those at the Bar (numbers)**

	<b>Pupils</b>	<b>Non-QC</b>	<b>QC</b>	<b>Total</b>
<b>No</b>	130	5754	486	6370
<b>Yes, 1-19 hours a week</b>	3	770	90	863
<b>Yes, 20-49 hours a week</b>	2	50	6	58
<b>Yes, 50 or more hours a week</b>	1	35	4	40
<b>Prefer not to say</b>	5	348	33	386
<b>No information</b>	276	7879	1143	9298
<b>Total</b>	417	14836	1762	17015

<sup>12</sup> See Key facts about carers and the people they care for. <https://carers.org/key-facts-about-carers-and-people-they-care>

## 7. Conclusions

Compared with 2017, there has been no substantial change in the reported profile of the Bar this year. This is to be expected when monitoring demographic changes in a profession on an annual basis.

Response rates continue to improve, with large increases in seven of the 11 categories monitored in this report, which is a very positive development. Apart from gender (which already has an almost 100 per cent response rate) and gender identity, which is being reported on for the first time in this report, the average response rate across questions increased by almost 8 percentage points year on year. The introduction of the new portal, MyBar, appears to have helped boost disclosure of several monitoring questions. As the disclosure rate increases, so does the quality of the BSB's evidence base. However, it should be noted that response rates for pupils are lower than for non-QCs in particular, in seven of the 11 monitoring categories (the exceptions being gender; ethnicity and age), which is a marked difference from previous versions of this report.

Overall, both gender and BAME representation at the Bar continue to move towards better reflecting the demographics of the UK population, with a continued increase in the proportion of female and BAME barristers at QC level and overall across the Bar.

There may be a lower proportion of disabled practitioners at the Bar in comparison to the UK working age population, although the response rate (at 51.0%) is too low to draw reliable conclusions.

The response rates for questions on socio-economic background are too low to provide a reliable barometer of the profession in this area. However, available data indicate a disproportionately high percentage of the Bar primarily attended a fee-paying secondary school.

The percentage of those at the Bar who provide care for another appears to be around that seen for workers across the UK.





**Chair's Report on Visits and External Meetings from December 2018****Status:****1. For noting****Executive Summary:**

2. In the interests of good governance, openness and transparency, this paper sets out the Chair's visits and meetings since the last Board meeting.

**List of Visits and Meetings:**

3 December 2018	-	Attended the Inaugural of the Chair of the Bar Council
10 December 2018	-	Met with BC re BSB Strategy Consultation
12 December 2018	-	Met with the new Chair, Richard Atkins QC
10 January 2019	-	Met Judith Farbey QC (now Ms Justice Farbey) for farewell lunch
15 January 2019	-	Attended the Chairs' Committee meeting with Naomi Ellenbogen QC and Vanessa Davies
17 January 2019	-	Met with Lord Keen and other officials for a catch-up meeting
18 January 2019	-	Attended the Regulatory Chairs' and CEOs meeting with Vanessa Davies hosted by LSB
23 January 2019	-	Attended the Treasurers' Reception and Dinner at Gray's Inn
30 January 2019	-	Attended the Board briefing meeting
31 January 2019	-	Met with Mark Fenhalls QC , leader of the SE Circuit