



# **Complaints Diversity Analysis Complaint outcomes from January 2015 - October 2019 Appendices**

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**BAR  
STANDARDS  
BOARD**

REGULATING BARRISTERS

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# Appendix I – Model results for complaint outcomes

## Likelihood of a complaint being closed without investigation

For complaints processed between 1 January 2015 and 14 October 2019.

Variable Type	Variable	Coef- ficient (odds-ra- tio)	Wald statistic	Signifi- cance. (p-value)	95% con- fidence interval – lower bound	95% con- fidence interval – upper bound
	<b>Intercept</b>	0.707	-1.188	0.2348	0.399	1.252
<b>Aspect Group:</b> Reference level was “Other aspects”	Abuse of position as a barrister	4.045	2.128	0.0333	1.117	14.656
	Breach of requirements in rela- tion to evidence	1.447	0.751	0.4526	0.552	3.791
	Breach of requirements in rela- tion to instructions	0.418	-1.425	0.1543	0.126	1.388
	Breach of requirements in rela- tion to witnesses	1.133	0.262	0.7937	0.444	2.895
	Conspiracy/Collusion	6.855	1.857	0.0633	0.899	52.275
	Failing to comply with undertak- ings or court/regulatory orders	0.198	-2.650	0.0080	0.060	0.656
	Failure to administer chambers or practice properly	2.518	1.655	0.0980	0.843	7.520
	Failure to complete or comply with AtP	0.350	-2.652	0.0080	0.161	0.761
	Failure to cooperate with the Legal Ombudsman	0.127	-2.377	0.0175	0.023	0.697
	Harassment/Discrimination	1.474	0.876	0.3812	0.618	3.514
	Misleading	2.249	2.771	0.0056	1.268	3.988
	Misleading person/client	1.939	1.078	0.2812	0.582	6.462
	Misleading the Court	1.229	0.753	0.4513	0.719	2.099
	Rudeness/Misbehaviour	1.375	0.973	0.3306	0.724	2.610
	Undertaking reserved legal activities when not authorised to do so	0.998	-0.004	0.9972	0.261	3.814
	Unsupported allegations	6.008	2.034	0.0419	1.068	33.811
<b>Barrister status: Ethnicity</b> Reference level was “White barristers”	Minority ethnic background	0.700	-1.615	0.1063	0.454	1.079
	No Information/Prefer not to say	0.874	-0.476	0.6344	0.502	1.523
<b>Barrister status: Gender</b>	<b>Male</b> (compared to female barristers)	0.729	-1.820	0.0688	0.519	1.025
<b>Barrister status: Practising status</b> Reference level was “Self-employed”	Barrister Status: Dual Capacity	0.351	-2.278	0.0227	0.143	0.864
	Barrister Status: Employed	1.308	0.785	0.4323	0.669	2.559
	Barrister Status: Self Employed - Sole Practitioner	0.571	-1.578	0.1145	0.285	1.145
	Barrister Status: Unregistered	1.034	0.117	0.9067	0.593	1.803
<b>Barrister status: QC</b>	Queen’s Counsel (QC) (compared to Non-QC barris- ters)	1.139	0.450	0.6527	0.646	2.010

Variable Type	Variable	Coef- ficient (odds-ra- tio)	Wald statistic	Signifi- cance. (p-value)	95% con- fidence interval – lower bound	95% con- fidence interval – upper bound
<b>Barrister status: Years since call</b>	Years since call at time of complaint	1.004	0.504	0.6146	0.988	1.020
<b>Complainant:</b>	Bar Standards Board	0.054	-8.598	0.0000	0.028	0.105
Reference level was “Barristers”	Client/Tribunal related/Criminal non defendant/other non-legal professional	6.165	7.146	0.0000	3.744	10.153
	Family	3.454	4.172	0.0000	1.929	6.183
	Other complainant	6.556	5.927	0.0000	3.521	12.210
	Other legal professional	1.657	1.590	0.1119	0.889	3.090
<b>Year of case deci- sion</b>	2016	1.192	0.741	0.4588	0.749	1.896
Reference level was “2015”	2017	2.660	3.841	0.0001	1.614	4.381
	2018	1.591	2.004	0.0451	1.010	2.505
	2019	3.074	4.139	0.0000	1.806	5.233

Cases in dataset used for model =1,642; Cases closed without investigation = 1,007

## Likelihood of a complaint being referred for disciplinary action

For complaints processed between 1 January 2015 and 14 October 2019.

Variable Type	Variable	Coef- ficient (odds-ra- tio)	Wald statistic	Signifi- cance. (p-value)	95% con- fidence interval – lower bound	95% con- fidence interval – upper bound
	Intercept	0.103	-4.561	0.0000	0.039	0.273
<b>Aspect Group:</b> Reference level was “Other aspects”	Criminal Conviction	13.889	6.019	0.0000	5.896	32.715
	Disciplinary finding by another body	22.039	2.734	0.0063	2.399	202.434
	Failing to comply with undertakings or court/regulatory orders	5.404	2.482	0.0130	1.426	20.477
	Failure to complete or comply with AtP	0.077	-5.617	0.0000	0.032	0.189
	Failure to comply with reporting requirements	4.860	2.676	0.0075	1.527	15.474
	Misleading	0.897	-0.242	0.8084	0.374	2.155
	Misleading the Court	0.677	-0.693	0.4880	0.225	2.037
	Rudeness/Misbehaviour	0.532	-0.982	0.3259	0.151	1.873
<b>Barrister status: Ethnicity</b> Reference level was “White barristers”	Minority ethnic background	1.602	1.870	0.0615	0.977	2.626
	No Information/Prefer not to say	0.934	-0.182	0.8559	0.447	1.952
<b>Barrister status: Gender</b>	Male (compared to female barristers)	2.076	2.866	0.0042	1.260	3.423
<b>Barrister status: Practising status</b>	Registered barrister at time of complaint Barrister status: (compared to those unregistered)	0.541	-2.241	0.0250	0.316	0.926
<b>Barrister status: Years since call</b>	Years since call at time of complaint	1.004	0.390	0.6965	0.985	1.023
<b>Complainant:</b> Reference level was “Barristers”	Bar Standards Board	4.454	3.581	0.0003	1.966	10.090
	Barrister	0.174	-3.296	0.0010	0.062	0.492
	Client/ Tribunal related/ Criminal non defendant/ other non-legal professional	0.604	-0.911	0.3620	0.204	1.787
	Family	1.027	0.055	0.9561	0.398	2.652
	Other legal professional	1.075	0.134	0.8933	0.373	3.099
<b>Year of case decision</b> Reference level was “2015”	2016	1.048	0.155	0.8770	0.582	1.887
	2017	0.493	-2.126	0.0335	0.257	0.946
	2018	0.853	-0.502	0.6156	0.457	1.589
	2019	0.303	-2.994	0.0027	0.139	0.662

Cases in dataset used for model = 1,622; Cases referred for disciplinary action = 175



## Appendix II – Model results for likelihood of being subject to a complaint

### Likelihood of being subject to an internal complaint

For barristers who practised at the Bar in England and Wales at any point between 1 January 2014 and 14 October 2019

Variable Type	Variable	Coefficient (odds-ratio)	Wald Statistic	Significance (p-value)	95% confidence interval – lower bound	95% confidence interval – upper bound
	Intercept	0.040	68.007	0.0000		
<b>Area of practice</b>	Immigration	1.807	8.175	0.0042	1.205	2.711
	Personal Injury	0.604	4.476	0.0344	0.378	0.964
<b>Ethnic group:</b> Reference level was White	Minority ethnic background	1.705	20.224	0.0000	1.351	2.151
	Missing/Prefer Not to say	1.349	3.139	0.0764	0.969	1.879
<b>Gender:</b> Reference level was Female	Male	1.306	7.074	0.0078	1.073	1.590
	Missing/Prefer Not to say	0.506	0.874	0.3497	0.121	2.109
<b>Years of call/ years with a given practising status</b>	Total years of Call	0.991	4.770	0.0290	0.982	0.999
	Total years as an employed barrister	0.815	7.919	0.0049	0.707	0.940
	Total years as a self-employed barrister	0.898	2.618	0.1057	0.788	1.023
	Total years as a sole practitioner	1.141	3.216	0.0729	0.988	1.317
	Total years as an unregistered barrister	0.998	0.001	0.9716	0.871	1.142
	Total years as a Queen's Counsel	0.903	6.050	0.0139	0.832	0.979

Barristers in data for the model = 19,147

## Likelihood of being subject to an external complaint

For barristers who practised at the Bar in England and Wales at any point between 1 January 2014 and 14 October 2019

Variable Type	Variable	Coefficient (odds-ratio)	Wald Statistic	Significance (p-value)	95% confidence interval – lower bound	95% confidence interval – upper bound
	Intercept	0.065	91.005	0.0000		
<b>Area of practice</b>	Crime	0.799	7.556	0.0060	0.681	0.938
	Employment	2.120	30.568	0.0000	1.624	2.766
	Family	1.564	30.473	0.0000	1.335	1.834
	Personal Injury	0.651	9.586	0.0020	0.496	0.854
<b>Ethnic group:</b> Reference level was White	Minority ethnic background	1.050	0.311	0.5772	0.883	1.249
	Missing/Prefer Not to say	0.953	0.167	0.6826	0.755	1.202
<b>Gender:</b> Reference level was Female	Male	1.122	3.050	0.0808	0.986	1.277
	Missing/Prefer Not to say	0.869	0.153	0.6960	0.429	1.760
<b>Years of call/ years with a given practising status</b>	Total years of Call	0.999	0.211	0.6463	0.993	1.004
	Total years as an employed barrister	0.862	7.849	0.0051	0.776	0.956
	Total years as a self-employed barrister	1.004	0.006	0.9397	0.914	1.102
	Total years as a sole practitioner	1.056	0.971	0.3245	0.947	1.177
	Total years as an unregistered barrister	0.802	16.534	0.0000	0.721	0.892
	Total years as a Public Access barrister	1.099	53.063	0.0000	1.071	1.127

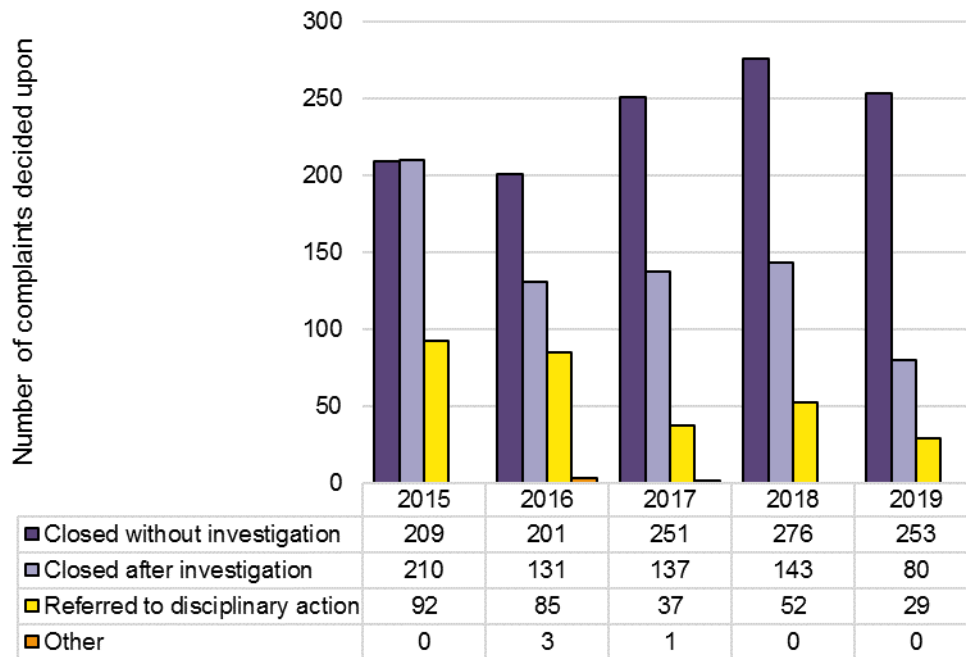
Barristers in data for the model = 19,147

## Appendix III – Further data exploration

Exploring some of the trends seen

### Case numbers by year

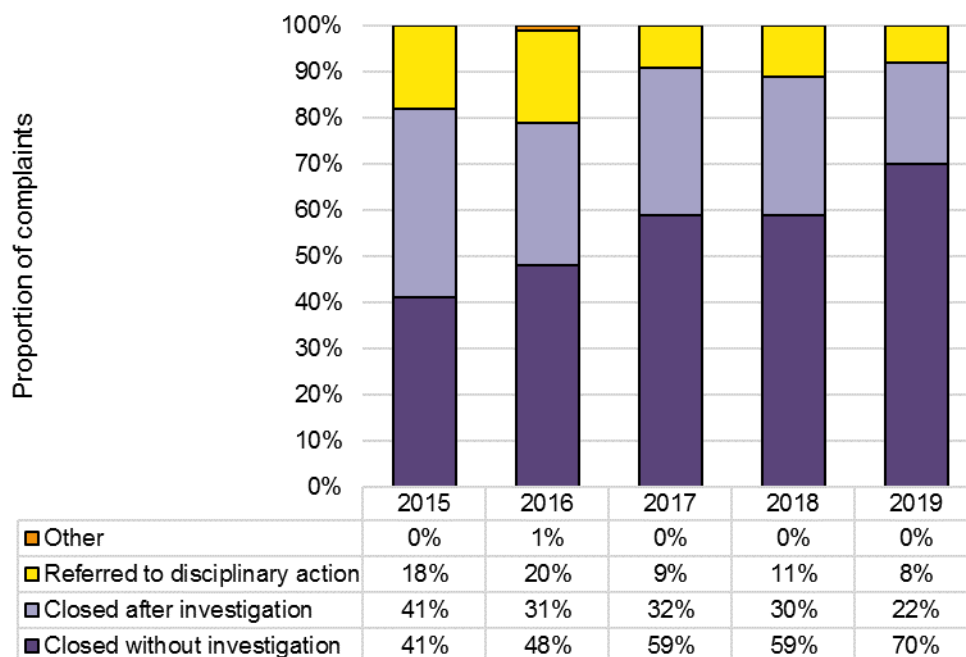
**Chart A1. All complaints decided upon from Jan 2015 – October 2019**



### Complaint outcomes

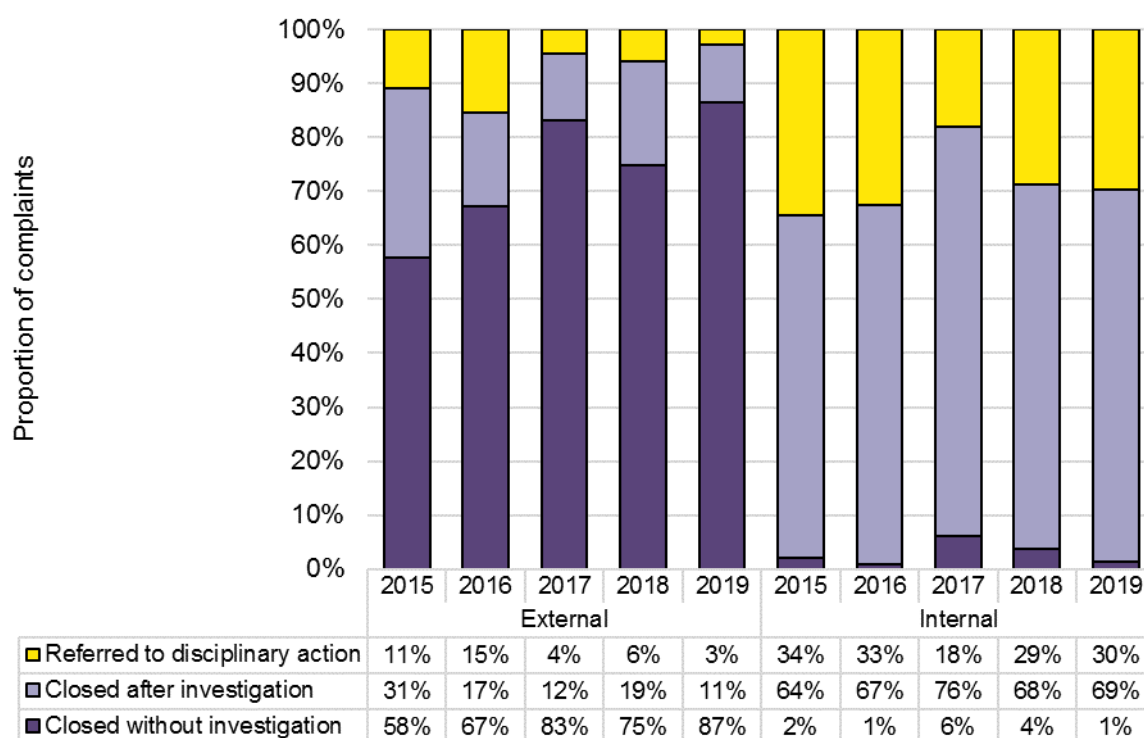
#### Trends in outcome of complaints over time

**Chart A2. Proportion of complaints decided upon in year by complaint outcome - All complaints decided upon from Jan 2015 – October 2019**

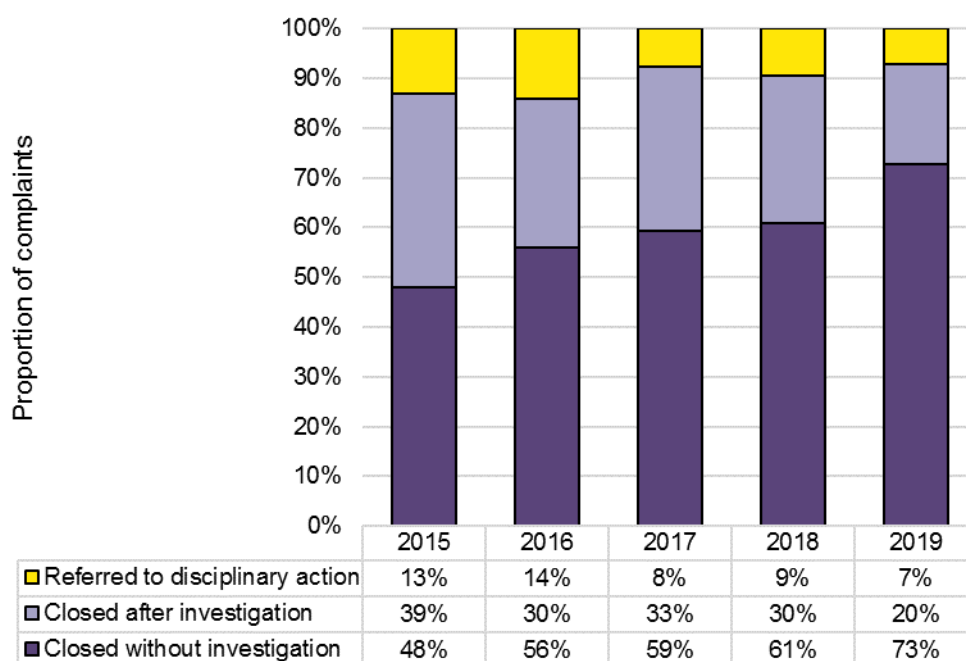




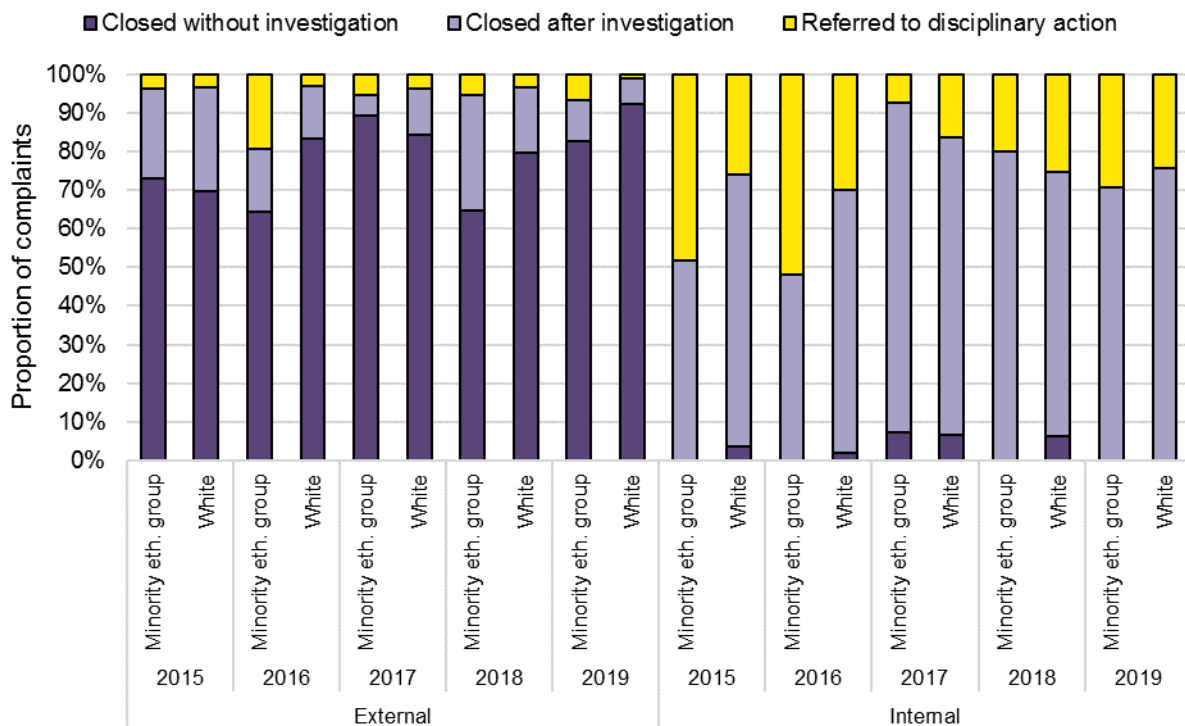
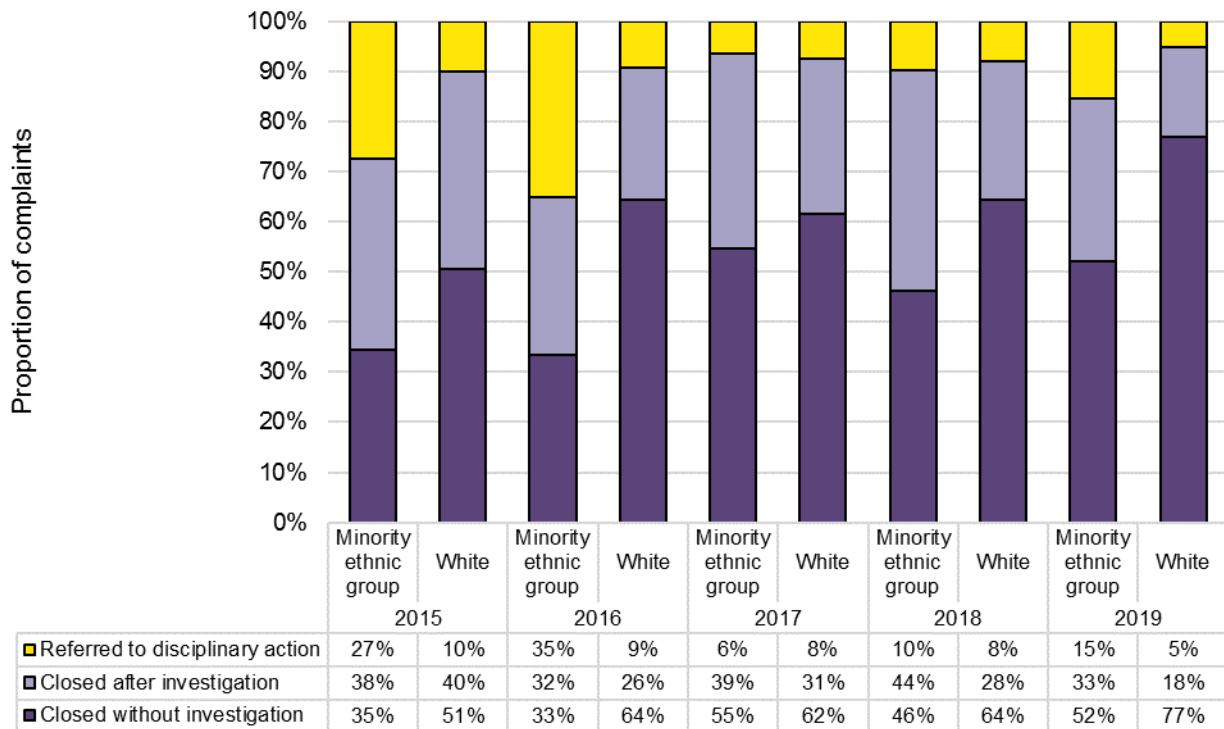
**Chart A3. Proportion of complaints decided upon in year by complaint outcome - All complaints decided upon from Jan 2015 – October 2019: Disaggregated by internal and external complaints**



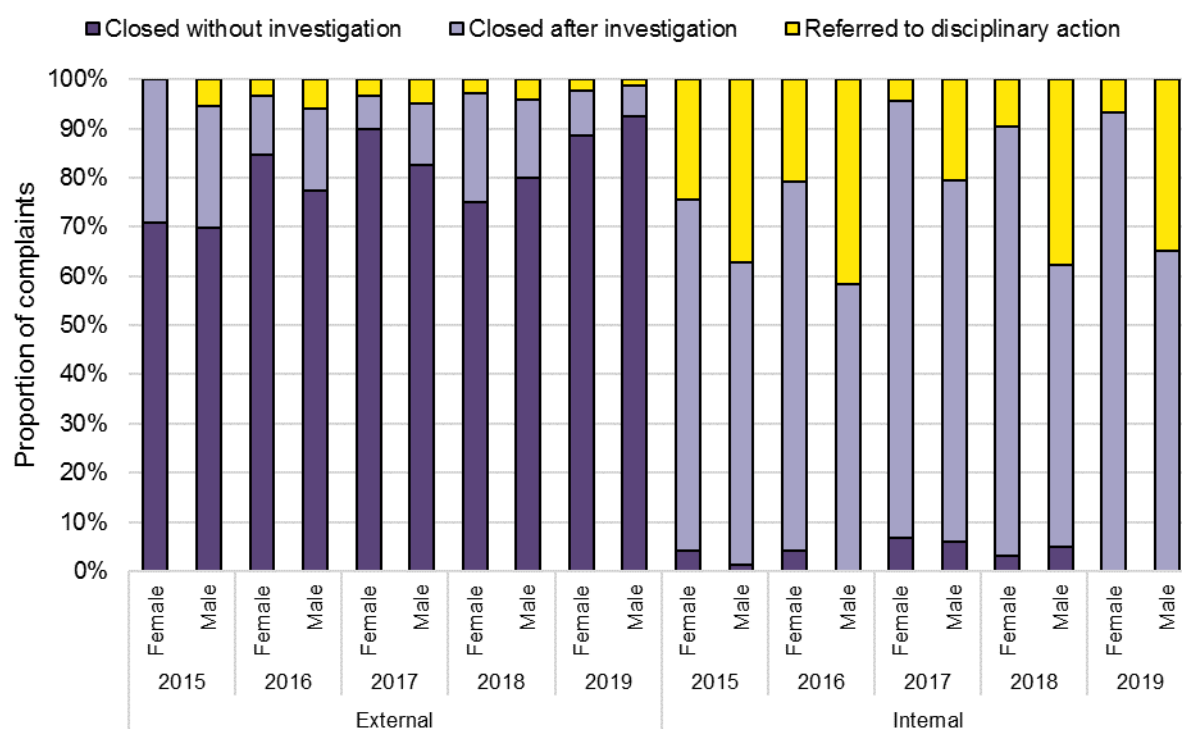
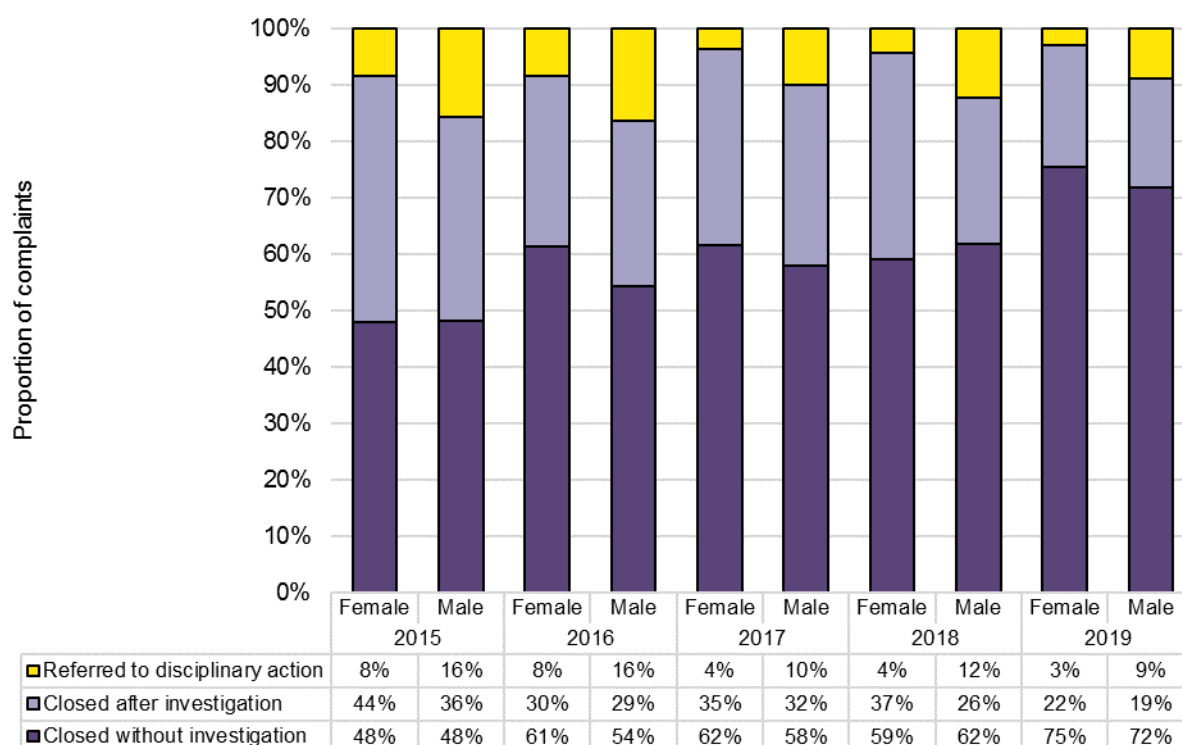
**Chart A4. Proportion of complaints decided upon in year by complaint outcome -Complaints decided upon from Jan 2015 – October 2019 that were used in the data-set for the complaint outcomes regression models only**



**Chart A5.1-A5.2. Trends in complaint outcome by ethnicity over time - Complaints decided upon from Jan 2015 – October 2019 that were used in the dataset for the complaint outcomes regression models only**



**Chart A61-A6.2. Trends in outcome by gender over time - Complaints decided upon from Jan 2015 – October 2019 that were used in the dataset for the complaint outcomes regression models only**



## Risk ratios for likelihood of being subject to certain complaint types by gender and ethnicity

The below tables include information on the most frequently seen primary case aspects. The ratios are ratios between the likelihood of being subject to a certain complaint type. They are calculated as a ratio of the proportion of barristers of a specified group who practised at any point between Jan 2014-Oct 2019 who were subject to the relevant complaint aspect.

For the male:female barristers odds ratios, a value above one suggests that male barristers were more likely to be subject to the complaint type than female barristers. A value above one for the minority ethnic background:White barristers odds ratio would suggest that minority ethnic background barristers were more likely to be subject to this complaint type than White barristers.

The tables relate to internal complaints and external complaints respectively.

### Internal Complaints

Primary Aspect	Risk ratio: Male barristers: Female barristers	Grand Total (excluding those not providing gender information)	Risk ratio: Minority ethnic group barristers: White barristers	Grand Total (excluding those not providing ethnicity information)
Failure to complete or comply with ATP	1.2	225	1.7	207
Criminal Conviction	0.7	43	2.1	42
Other	4.6	40	3.6	38
Dishonesty/Discreditable conduct	2.4	31	6.9	28
Failure in provision of information to the BSB	1.5	16	2.5	15
Breach of requirements in relation to instructions	1.0	14	9.2	14
Failing preserve confidentiality	2.2	14	2.1	13
Misleading	2.2	14	2.1	13
Undertaking reserved legal activities when not authorised to do so	2.2	13	2.9	10
Other primary aspects	2.0	82	2.0	71
Overall - for barristers practising from 2014-2019	2.3	475	2.3	434

## External Complaints

Primary Aspect	Risk ratio: Male barristers: Female barristers	Grand Total (excluding those not providing gender information)	Risk ratio: Minority ethnic group barristers: White barristers	Grand Total (excluding those not providing ethnicity information)
Misleading	1.0	231	0.9	216
Dishonesty/Discreditable conduct	1.5	177	0.9	163
Misleading Court	1.2	146	1.1	136
Other	1.2	103	1.6	96
Rudeness/Misbehaviour	0.7	95	1.6	89
Abuse of position as a barrister	1.1	49	0.8	46
Breach of requirements in relation to evidence	1.0	49	0.7	45
Inappropriate communications	1.2	50	1.5	45
Harassment/Discrimination	1.5	46	0.7	45
Conspiracy collusion	1.7	34	0.9	33
Breach of requirements in relation to witnesses	1.3	34	2.9	30
Other primary aspects	1.3	281	1.1	242
Overall - for barristers practising from 2014-2019	1.1	1247	1.2	1166

## Appendix IV – Further elaboration on research methodology

### Software used

Statistical analysis included in this report has been undertaken using both R and SPSS statistical software packages.

### Selection of the Sample for Analysis - Outcomes

The entire dataset consisted of 2190 separate complaints against barristers from 1 January 2015 to 14 October 2019. There were many instances of barristers having more than one complaint against them: In total, there were 1723 individual barristers who were subject to a separate complaint during the reporting period. A frequency table of the number of cases a barrister was subject to from Jan 2015-Oct 2019 is given below.

**Table 1. Number of cases against a barrister from Jan 2015-Oct 2019, and number of barristers in each group**

Number of cases against a barrister processed from Jan 2015-Oct 2019	Number of individual barristers
One case	1483
Two cases	174
Three cases	41
Four cases	10
Five cases	6
Seven cases	1
Eight cases	1
Nine cases	1
Twelve cases	1
Nineteen cases	1
Ninety-three cases	1
Number of individual barristers	<b>1723</b>
Total number of cases	<b>2190</b>

The presence of barristers with more than one complaint against them was a substantial source of potential bias in the dataset, as one of the key assumptions of the regression model used is independence of observations, which would not be the case if more than one case for an individual barrister were present in the dataset. To control for this, it was decided to only include one randomly selected complaint for each barrister in the dataset in the regression models. This would still include the majority of the data on cases and would offer a less biased account of how complaints against barristers were handled.

The approach used for this analysis should also result in models with less error in terms of the effect of case decision year, in comparison to models including only first complaints received against each barrister during the period (as only including first complaints would weight the sample to include more cases from earlier in the period covered by the analysis). However, the approach taken, does introduce some extra uncertainty into the models, due to some complaints data (467 cases, or around 21.3% of the cases) not being included. As a result, extra care should be taken in interpreting model outputs.<sup>1</sup>

<sup>1</sup> It is recognised that with the larger data set some of the borderline findings might have reached significance, and so some weight should also be given to results where there is weak evidence for an association but statistical significance at 5% is not quite reached; these are evident in odds ratios where  $0.05 < p < 0.1$  in the model results.



Ten cases were taken out of the dataset where information on gender had not been provided, and five cases were removed where the barrister subject to a complaint was suspended at the time of complaint. This left 1708 cases in the dataset used for the regression models in total.

## Selection of sample for analysis – likelihood

The data required for modelling the likelihood of being subject to a complaint was drawn from the BSB's Data Warehouse and covered all barristers who held a practising certificate at any stage between 01/01/2014 to 10/10/2019 (the period covered begins a year before the complaint period as complaints can be made up to a year after the incident involved).

The sample consisted of 19,301 individuals who had a practising certificate at any stage during the period under consideration, of whom 1664 individuals (8.6%) had been the subject of at least one external or internal complaint during this period.

A range of available data was gathered relating to the key aspects of the characteristics of barristers included in the sample, their practising status, and their listed practice areas.

Of particular note are aspects of practising status that are subject to change over the period of analysis. While the date of a complaint enables factors like whether a barrister was a sole practitioner, or was unregistered, at the time of the complaint to be determined (both of which were shown to have a significant effect on complaint outcomes<sup>2</sup>), over a period of time barristers may change their status a number of times - moving from chambers to sole practice or to employed status, or becoming unregistered for a short period of time before registering again. As a result, this analysis did not classify barristers as having a single status, but instead calculated the proportion of Jan 2014-Oct 2019 they had spent with any given status. This calculation was used for the following statuses: unregistered, sole practitioner, employed, self-employed, public access registered, and QC.

## Defining the aspect groups to use

The primary case aspect groups used in this research have been grouped together from a greater number of primary case aspects. The process for grouping the aspects was undertaken in collaboration with the Enforcement Department. For the primary aspect of the case, all complaint categories with a frequency of over 10 complaints in the dataset were identified and included in the analysis. This covered the following complaints:

- Abuse of position as a barrister
- Breach of requirements in relation to: drafting; evidence; instructions; witnesses
- Client interest service issues
- Conflict of interest
- Conspiracy or collusion
- Criminal conviction
- Disciplinary finding by another body
- Dishonesty/discreditable conduct
- Failing preserve confidentiality
- Failing to comply with undertakings or court or regulatory orders
- Failure to cooperate with the Legal Ombudsman
- Failure in provision of information to the BSB

<sup>2</sup> In the previously published research on cases from 2012-2014.

- Failure to administer chambers or practice properly
- Failure to complete or comply with Authorisation to Practise
- Failure to comply with reporting requirements
- Harassment/Discrimination
- Holding out as a barrister when not authorised to do so
- Inappropriate communications
- Inappropriate media or social media
- Misleading
- Misleading the court
- Misleading person/client
- Other
- Rudeness or misbehaviour
- Undertaking reserved legal activities when not authorised to do so
- Unsupported allegations

## **Screening of variables in the regression models**

Screening for variables to include in the regression models was done using the dataset of cases left after randomly choosing only one case against each barrister during the time period.

Variables were included in the logistic regression analysis in cases where the p-value of the chi-squared test (or Fisher's exact test where appropriate) or t-test was less than 0.2 and the variable was significant in the regression model, or if the chi-squared test or t test p-value was lower than 0.05. This approach was chosen in order to try and include the most important variables in the models and not leave an overly large number of variables in them, which was a particular concern for the model on complaints referred for disciplinary action.

## **Quasi-complete separation in the data**

Quasi-complete separation in a model occurs when a categorical variable corresponds with only one type of outcome in a logistic regression model. Such variables are difficult to interpret and can affect the validity of the model results. There are several ways to proceed when such issues are present in the dataset. The one decided upon for this research was to try to further group the relevant categories with other ones where appropriate, and if that was not possible, then to delete cases involving variables with quasi-complete separation.

Additional regression models for the complaints outcomes were run using a method called Firth's correction, which corrects for quasi-complete separation in data. The results to such models were very similar to the models detailed in this report, and so for ease of interpretation it was decided against using the models utilising Firth's correction.

## **Model and research validation**

This research has been peer reviewed by a specialist in the area of social research and statistical analysis.

