



Complaints Diversity Analysis

Complaint outcomes from January 2015 - October 2019

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Contents

Executive Summary	3
Background	5
Research aims	7
Methodology and limitations	7
Overall modelling approach	7
Model interpretation	8
Modelling analysis of complaint outcomes	8
Modelling likelihood of being subject to a complaint	11
Limitations	12
Results: Complaint outcomes	14
Cases closed without investigation	14
Initial testing of variables	14
Regression model results	15
Cases referred to disciplinary action	17
Initial testing of variables	17
Regression model results	18
Results: Likelihood of being subject to a complaint	21
Internal Complaints	21
Regression model results	22
External Complaints	23
Regression model results	24
Conclusions	26
Complaint Outcomes	26
Likelihood of being subject to a complaint	28

Executive Summary

- This research involved the analysis of complaints¹ relating to professional misconduct processed by the Bar Standards Board (BSB) during the period from 1 January 2015 to 14 October 2019, after which our regulatory decision-making processes changed.
- It follows on from research conducted on similar complaints processed from 2012-2014 and involves the analysis of complaint outcomes and the likelihood of practising barristers being subject to a complaint during the Jan 2015-Oct 2019 period. The aims of the research were primarily to further investigate the relationship between barrister characteristics (particularly gender and ethnicity) and the outcomes of complaints against barristers, and the likelihood of practising barristers being subject to a complaint during this period.
- In line with the previous research, logistic regression models were developed for complaint outcomes, which modelled both the likelihood of complaints being closed without investigation, and the likelihood of complaints being referred for disciplinary action.
- Two further logistic regression models were developed of the likelihood that practising barristers would be subject to a complaint between Jan 2015 and Oct 2019. These related to the likelihood of being subject to one or more internal complaints (complaints raised by the BSB based on information received from a wide variety of sources, including self-reports of potential professional misconduct; referrals from other departments of the BSB; referrals from other regulators; judicial criticisms; and public/media coverage of barristers' behaviour) and to one or more external complaints (complaints raised by members of the public, legal professionals or other external sources, who wished to make a formal complaint about a barrister).
- As with all statistical modelling, there is an element of uncertainty involved with the results for all of the regression models. In addition, over the period analysed, there were far fewer complaints referred for disciplinary action than closed without investigation and extra caution should be taken when making inferences on the model relating to such cases.

Overall: the effect of gender and ethnicity

- Male barristers were more likely to have cases against them referred for disciplinary action than female barristers. Male barristers subject to a complaint were around 2.1 times more likely to have their case referred for disciplinary action compared to female barristers subject to a complaint. Cases against male barristers were also more likely to be referred for disciplinary action in the previous BSB report on complaints.
- Male barristers were also more likely than female barristers to be subject to an internal complaint (a case brought by the BSB): around 1.3 times more likely. In the 2012-2014 report, male barristers were not found to be more likely than female barristers to be subject to an internal complaint.
- There was not a statistically significant² relationship between gender and whether cases were closed without investigation, or whether a barrister was subject to an external complaint. In the 2012-2014 report, male barristers were found to be significantly more likely to be subject to an external complaint. However, gender was close to statistical significance when looking at whether cases were closed without investigation, suggesting that there may be some association between being male and a lesser likelihood of a complaint being closed without investigation.
- Compared to White barristers, barristers from minority ethnic backgrounds were around 1.7

¹ We now refer to the information we receive about barristers as "reports" but during this period we referred to "complaints".

² For the purposes of this analysis, a variable was considered significant if it had a "p-value" of less than 0.05, meaning there is less than a 5 per cent likelihood that the relationship observed between two or more variables can be explained by chance alone.

times more likely to be subject to an internal complaint from Jan 2015-Oct 2019 compared to White barristers. Barristers from minority ethnic backgrounds were also more likely to be subject to internal complaints in the 2012-2014 report.

- There was not a statistically significant relationship between ethnicity and whether cases were closed without investigation or referred to disciplinary action, or whether a barrister was subject to an external complaint. The same findings were found in the 2012-2014 research. However, ethnicity was close to statistical significance when looking at whether cases were referred to disciplinary action, suggesting there may be some association between being from a minority ethnic background and a greater likelihood of a complaint being referred for disciplinary action.
- Analysis of year on year trends of complaint outcomes and ethnicity suggests that while there were a greater proportion of complaints referred for disciplinary action for barristers from minority ethnic backgrounds in comparison to White barristers prior to 2017, from 2017 onwards there is no clear trend. This suggests that the association between ethnicity and the likelihood of an internal complaint being referred for disciplinary action may have become weaker from 2017 onwards.

Other findings

- Years since call showed no association with complaint outcomes, suggesting that age/years of experience is not associated with the likelihood of a complaint being closed without investigation or referred to disciplinary action. Years since call was, however, associated with a decreased likelihood of being subject to an internal complaint.
- Cases brought by complainants who could generally be said to have less knowledge of the conduct expected of a barrister were more likely to be closed without investigation, and less likely to be referred for disciplinary action: For example, complaints from litigants in person about barristers misleading the court. In contrast, some types of complaints are rarely closed without investigation and far more likely to be referred to disciplinary action, such as reports of criminal convictions or cases referred by another disciplinary body.
- The practising status of the barrister during the period analysed had a relationship with complaint likelihood. For example, each year spent as an employed barrister was associated with a decrease in the likelihood of being subject to an internal or external complaint, and each year as a QC was associated with a decrease in the likelihood of being subject to an external complaint. In contrast, each year as a Public Access barrister during the period was associated with an increase in the likelihood of being subject to an external complaint.
- Some areas of practice also had a relationship with complaint likelihood – for example, barristers with immigration as their main area of practice were more likely to be subject to an internal complaint, and barristers with family or employment as their main area of practice were more likely to be subject to an external complaint.

Background

1. Amongst other duties, the Bar Standards Board (BSB) is responsible for dealing with complaints against barristers and carrying out investigations where there is evidence of a potential breach of the professional obligations set out in the BSB Handbook.
2. Until October 2019, complaints were assessed by the BSB Professional Conduct Department (PCD). From October 2019, the BSB introduced a new centralised system for handling all types of incoming information, including information about potential breaches of the BSB Handbook.³
3. During the period covered by this report, the BSB referred to cases in the enforcement system as complaints. Under the old processes, the BSB distinguished between two types of complaint: external and internal. External complaints were those received from members of the public, legal professionals, or other external sources who wished to make a formal complaint. Such complaints were registered and assessed regardless of the nature of the complaint or the evidence provided to support it.
4. In contrast, internal complaints were those raised by the BSB based on information received other than via a formal complaint. The information was received from a wide variety of sources. These included, but were not limited to:
 - self-reports, and reports by others, of potential professional misconduct;
 - referrals of potential breaches from other departments of the BSB;
 - referrals from other regulators following disciplinary proceedings;
 - judicial criticisms in published judgments; and
 - public/media coverage of behaviour giving cause for concern.
5. Internal complaints were only raised by the BSB where the information received was assessed as presenting sufficient evidence of a potential breach of the BSB Handbook, and the level of risk to the regulatory objectives was considered sufficiently high to warrant a formal investigation.⁴
6. For both types of complaint, cases were subject to an initial assessment to determine whether there was evidence of a potential breach. If no such evidence were available, the matters were closed without further investigation. Where there was sufficient evidence of a potential breach that presented a risk, a formal investigation would be carried out. At the conclusion of the investigation, the evidence (and if necessary risk) would be assessed again and a decision taken as to whether the case should be closed due to insufficient evidence or enforcement action taken, including referral to disciplinary tribunal.
7. The BSB aims to ensure that conduct cases assessed by us are done so in a way which does not discriminate against barristers based upon any protected characteristic group or other group they may belong to. This report is the latest in a series that have been produced by the BSB to monitor that this is the case.⁵

The 2012 – 2014 analysis of PCD complaints against barristers

8. Prior to this report, the most recent research published by the BSB looking into complaint

³ With the introduction of the new system, the BSB ceased using the term “complaints”, and replaced it with “reports”, as “complaints” was considered to be misleading given that the BSB has no power to offer redress.

⁴ The BSB assesses risk with reference to a Risk Framework that has been developed in the light of the Regulatory Objectives in the Legal Services Act 2007.

⁵ The BSB produced Diversity Reports for the periods 2007-2008 and 2009-2010. Following this the BSB carried out an analysis of the data for the period 2007-2011: Bar Standards Board (2013). Research report on diversity of barristers subject to complaints: 2007 – 2011.

outcomes and likelihood of being subject to a complaint was published in 2016.⁶ It analysed complaints processed from 2012-2014 with a focus on the protected characteristics of gender and ethnicity. It followed on from a report which looked into complaint outcomes between 2007-2011, which resulted in a review of the BSB complaints system and steps taken by the BSB to ensure that members of the Professional Conduct Committee could not identify the names of barristers in cases considered at Committee meetings with the aim of reducing risks of unconscious bias in decision making.⁷

9. The 2016 report, undertook a more advanced analysis than previous research on complaints handled by the BSB to see if once other characteristics of barristers and the types of complaint made were controlled for, gender and ethnicity showed a statistically significant relationship with complaint likelihood and complaint outcomes.
10. Using regression analysis⁸ to examine the factors that affected complaint outcomes and complaint likelihood, this research found that, when controlling for other factors:
 - Ethnicity did not significantly predict whether complaints were closed without investigation or referred to disciplinary action.
 - Gender did significantly predict whether complaints were referred to disciplinary action - male barristers were more likely to have complaints referred to disciplinary action than female barristers.
 - Ethnicity significantly predicted being subject to an internal complaint - White barristers were less likely than minority ethnic background barristers to be subject to such complaints.
 - Gender significantly predicted being subject to an external complaint - male barristers were more likely than female barristers to be subject to such complaints.
11. In response to the findings relating to the association between gender and case outcomes, the BSB took steps to ensure that members of the Professional Conduct Committee could not identify the gender of barristers in cases considered at Committee meetings, other than when this was a central element of the case; with the aim of addressing potential unconscious bias based on the gender of a barrister when deciding on whether to refer a case to disciplinary action.
12. In 2018/19 the BSB took the decision to repeat the analysis published in 2016. This analysis aimed to use the data available for the three years from 2015-17 to see if the patterns and conclusions observed in the earlier research were still valid. In particular, this research aimed to identify if the disparities in outcomes by gender were still present.
13. However, with the restructuring of the BSB complaints handling process, it was decided to analyse the period from January 2015 up to the introduction of the new complaints handling process in October 2019. This would serve as a reference point for comparison when analysing trends in handling reports under the new system.

⁶ Bar Standards Board (2016). Complaints at the Bar: An analysis of ethnicity and gender - 2012-2014

⁷ Inclusive Employers (2013). Diversity Review: Bar Standards Board's complaints system. The report identified a series of steps that could be taken to improve the process from an equality and diversity perspective but the view of Inclusive Employers was that "the procedure itself is not at fault. This means that other factors, as yet to be identified, are causing the disproportions shown in the data."

⁸ Regression analysis is a statistical process for estimating the relationships between various factors known as "variables".

Research aims

14. The following analysis is primarily intended to determine the extent to which the ethnicity or gender of a barrister is estimated to influence the likelihood of them being subject to a complaint to PCD over the Jan 2015-Oct 2019 period, and the outcomes of such complaints initiated. Other trends in the data worthy of note will also be highlighted. As detailed above, previous research had identified a number of areas of disparity in complaint outcomes regarding ethnicity and gender.
15. The key questions addressed in this research are:
 - When controlling for other factors, what relationships do ethnicity and gender display with:
 - the likelihood of a complaint being closed without investigation or referred to disciplinary action during the Jan 2015-Oct 2019 period?
 - the likelihood of being subject to an internal complaint or an external complaint for barristers practising during the Jan 2015-Oct 2019 period?
 - What other trends are seen in the data, and are these worthy of investigating further?

Methodology and limitations

Overall modelling approach

16. To address the research questions, two datasets were used;
 - The outcomes of complaints against barristers, including the primary aspect of the case and the source of the complaints (“case complainant”). The data covered complaints received and complaints decided from 1 January 2015 to 14 October 2019, covering almost five years in total; and
 - The details of barristers that practised during the period of analysis, including whether they were subject to one or more internal and/or external complaints. This covered all barristers who held a practising certificate at any stage between 1 January 2014 to 14 October 2019 (the period covered begins a year before the complaint period as complaints could be made up to a year after the incident involved).
17. This research made use of multiple regression analysis in order to enable analysis of different factors that may impact on complaint outcomes and complaint likelihood to be considered simultaneously. This ensures the analysis can identify which factors have the strongest relationship with the outcome being analysed.
18. Regression analysis models the size of predictive relationships between one or more explanatory variable(s) and a single outcome variable. It provides an estimate of the size of and statistical significance of the modelled relationships, while controlling for the effects of other explanatory variables in the model.⁹ It should be noted that the size of the predictive relationships identified are statistical estimates and thus may be over or under estimated.¹⁰
19. The type of regression analysis undertaken was multiple logistic regression, which is a commonly used technique when the outcome variable can be modelled as a binary one (e.g.

⁹ An outcome variable is the variable we are interested in better understanding what influences the different outcomes/values of it. Explanatory variables are those variables we propose may influence the value of the outcome variable, and we undertake tests to determine whether this is the case.

¹⁰ The confidence intervals presented in the model summary tables in the appendices give some idea of the uncertainty regarding the predictive relationships presented.

a 'Yes' or 'No' outcome), and there are potentially multiple explanatory variables (in other words, a number of different factors may contribute to the outcome being analysed).

Model interpretation

20. Where differences or variables are described as 'statistically significant', this indicates that they have been tested and found to be statistically significant at the 5 per cent significance level or below (the standard significance level for social research), as indicated by a p-value. A significance below 5 per cent would suggest that there is less than a 5 per cent likelihood that the relationship observed between two or more variables can be explained by chance alone, given the data.
21. Regression models are suited to modelling uncertainty in processes where there is variability in the outcome. Some examples of variation in the data used for this research include variance in the likelihood of complainants submitting complaints against barristers; the severity of the complaint; the amount of evidence for the complaint; and a barrister's cooperation with the complaint review process.¹¹
22. The outputs of regression models include estimates of the effect of each explanatory variable on an outcome variable: These are known as model coefficients. In the case of categorical variables (variables which have two or more categories¹²) they indicate the predicted effect of a category on some outcome in comparison to a reference group. This predicted effect is independent of other variables in the model (e.g. males in comparison to females, independent of the effect of height etc). In this analysis, the model coefficients presented are all odds ratios.
23. An odds ratio greater than the value of one suggests that the presence of the variable would make the outcome of interest¹³ more likely, and odds ratio of less than one suggests that the presence of the variable would make the outcome of interest less likely (odds ratios are always greater than 0). For example, an odds ratio of 2.1, for males in comparison to females would indicate that males are 2.1 times more likely to be associated with some outcome compared to females, independent of other variables in the model. A p-value of less than 0.05, would additionally indicate that, based on the data, there is a less than 5 per cent chance that the association indicated by the odds-ratio is due to chance alone.
24. It should be noted that the resulting coefficients from the models are estimates only. Full model summaries, including confidence intervals, are given in the appendices.

Modelling analysis of complaint outcomes

25. Data used for the analysis of complaint outcomes was taken from BSB data held on complaints against barristers assessed by the Professional Conduct Department. The dataset included data on the nature of complaints (the primary aspect of the complaint as classified by the BSB Professional Conduct Department),¹⁴ the type of complainant, and key demographic data and practising status data held on each barrister subject to a complaint taken from the BSB's central membership records.
26. 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. The final dataset used for the regression

¹¹ The measures of uncertainty in the regression models (such as p-values and confidence intervals) largely relate to the variation in the data caused by such factors.

¹² For example, a variable of age range with categories of 18-24, 25-34 etc, would be a categorical variable.

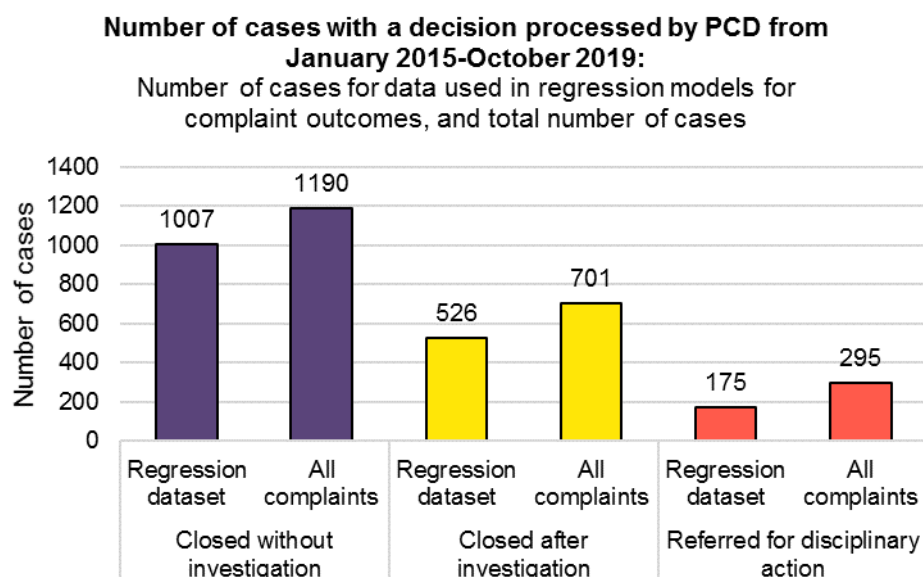
¹³ An outcome of interest may be whether a case is referred for disciplinary action for example.

¹⁴ Cases received by the BSB are given case aspects categorising the type of complaint received. Cases can be labelled with more than one aspect. The primary case aspect is the aspect which defines the case more than any other aspects it is given.

analysis on complaint outcomes used one randomly selected complaint for each barrister, and removed a further 15 cases where data was not available, or the barrister was already suspended at the time of the complaint. Further information on the selection of the dataset is given in the Technical Appendix accompanying this report.

27. The breakdown of the stage outcome of the one randomly selected case for each barrister used for the analysis, giving 1708 cases in total, is given in Chart 1 below.

Chart 1. Number of cases with a decision from January 2015-October 2019 - Number of cases in regression models, and overall



28. The variables in the dataset could broadly be grouped into four categories; primary case aspect; barrister status and demographic information; complainant category; and year of case decision.
29. 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. A full list of the complaint categories analysed is given in the technical appendix accompanying this report.
30. For the type of complainant, upon looking at contingency tables for case outcomes by complainants, it was decided that case complainants would be grouped in the following way:
- The Bar Standards Board
 - Barristers
 - Clients; tribunal related complaints; criminal non-defendants; and other non-legal professionals in one grouping
 - Family clients
 - Other legal professionals
 - Other complainants
31. These categories were determined with reference to previous PCD reporting, and similar characteristics (in terms of case outcomes) of complaints from certain groups.
32. For the barrister who was the subject of the complaint, key profile data was included based either on the key focus of the research (key demographic characteristics) or on the findings of previous research. This resulted in the following identifiers being included in the analysis:
- Ethnicity - whether the barrister subject to the complaint is from a White ethnic group; a

minority ethnic group; or whether the data on ethnicity was missing.

- Gender – whether the barrister subject to the complaint is male or female.
- Employed/self-employed/Sole Practitioner/Dual Capacity/Pupil (at the date the complaint was made) – the status of the barrister who is the subject of the complaint at the time the complaint was made with regards to whether they were;
 - self-employed in chambers;
 - a sole practitioner (self-employed barristers who work alone rather than within a set of barrister's chambers);
 - an employed barrister (employed under a contract by an organisation);
 - a Dual Capacity barrister (working partly at the employed bar, and partly as a self-employed barrister); or
 - a pupil.
- Queen's Counsel (QC) (at the date the complaint was made) – whether the barrister who was the subject of a complaint was a QC (senior barristers who are considered as experts in their field).
- Unregistered (at the date the complaint was made) – this category indicates whether the barrister who was the subject of a complaint did not have a practising certificate, and therefore was not authorised to practise at the time the complaint was made (they could still have been practising at the time the conduct complained of occurred).

33. As gender and ethnicity were the protected characteristics flagged as an area of concern in previous research on complaints against barristers, their inclusion in all models detailed in this report was required. In the case of age, the data for years since Call was more complete, and was thought to be a better predictor. For other protected characteristics, data for these variables was missing for more than half the barristers covered by the dataset, and so the variables were not included because of this.
34. Including a variable regarding whether a barrister had previously been the subject of disciplinary action was also considered at this stage. However, if any gender or racial bias did exist, this could also have affected the outcomes of previous disciplinary findings. As such, this variable was not included in the analysis, despite the fact that previous findings against a barrister did have a significant correlation with the outcomes of subsequent complaints.
35. Gender and ethnicity were included in all models due to interest in their association with complaint outcomes in findings of previous research. In order to filter variables that showed a weak or no relation to complaint outcomes, chi-squared tests or Fisher's exact tests were conducted (for categorical variables), and t-tests (for continuous variables) were conducted to determine which variables had a significant relationship with complaint outcomes.¹⁵ This was done for the cases left in the dataset after randomly choosing only one case against each barrister during the time period. More detail on the methodology followed for filtering variables out of the final regression models is detailed in Appendix IV.

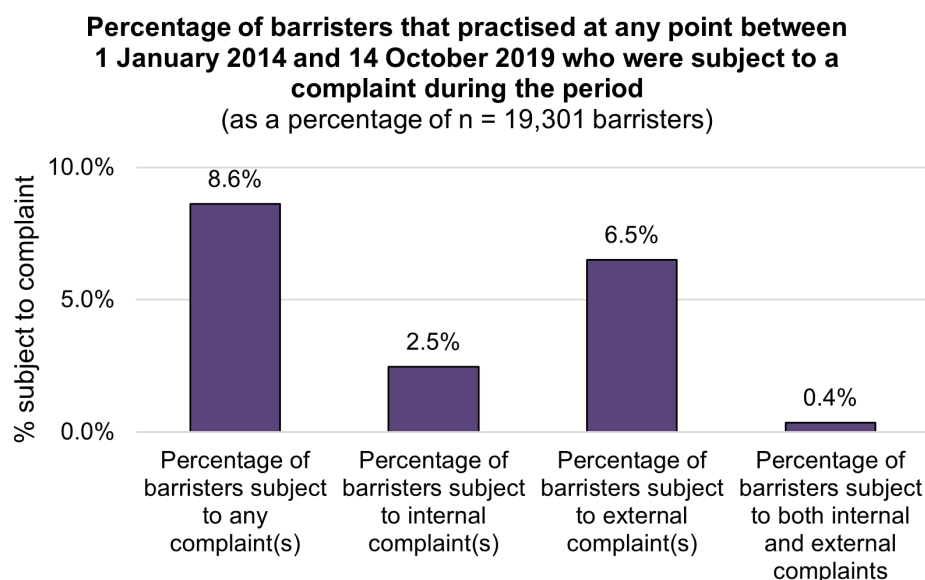
¹⁵ Chi-squared tests are statistical tests undertaken with the aim of showing whether the observed values for a categorical variable in relation to an outcome is noticeably different from that which would be expected. Fisher's Exact tests are based around the same premise but are often undertaken in cases where the data is insufficient for a Chi-squared test.

T-tests are statistical tests used to explore whether there are significant differences present between the means of two groups for numeric variables.

Modelling likelihood of being subject to a complaint

36. In analysing what factors are likely to contribute to complaints being lodged against a barrister, it was decided that the sample should be representative of practising barristers who could be subject to a complaint. The approach taken was to select barristers who were practising during the period under consideration. This excluded from the analysis a number of individuals against whom complaints were made who were not registered barristers¹⁶ at any stage during Jan 2014-Oct 2019. This was done because the BSB has far less knowledge and oversight of provision of legal services by unregistered barristers and the population of unregistered barristers is greater than the population of registered barristers. Therefore, including them in any analysis would heavily weight the results towards trends seen for this group.
37. 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, as shown in Chart 2 below.

Chart 2. Percentage of barristers that practised at any point between 1 January 2014 and 14 October 2019 who were subject to a complaint during the period



38. More detail on the sample used for modelling complaint likelihood is given in the technical appendix accompanying this report.
39. For each barrister included in the sample, information on their practising status (such as whether they were employed or self-employed) was included for analysis. However, as barristers' status may change over time, 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.
40. Data relating to both the demographic characteristics of barristers and their practising status were used for this stage of the analysis. The following barrister characteristics were included:
- Gender
 - Ethnicity (White, minority ethnic background, missing data)
 - Years of Call
 - Status: Separate variables for the proportion of time between Jan 2014-Oct 2019 the barrister had been registered as:

¹⁶ A registered barrister is a barrister with a practicing certificate issued by the Bar Council.

- Self-employed; Employed; Sole practitioner; Unregistered (note that barristers who spent the entire period unregistered were excluded from the analysis); Public access registered; Queen's Counsel (QC)
41. In addition to aspects of a barrister's practising status, data on the practice areas listed by barristers was also used in the analysis. Certain areas of practice were expected to be more likely to prompt complaints against a barrister than others, so this enabled the analysis to investigate the extent to which practising in certain areas of law increased or decreased the likelihood of a barrister being the subject of an internal or external complaint.
 42. However, note that the practice area data held by the BSB is less reliable than other data held by the organisation as the data is taken from that provided to the BSB during the 2020 Authorisation to Practise process, and so may be different from main area of practice at the time of complaint. This means that the analysis on the impact of practice areas on complaint likelihood is likely to be less reliable than analysis addressing the practising status and demographic characteristics of the barrister. The following practice areas were analysed:
 - Commercial Litigation; Crime;¹⁷ Employment; Family;¹⁸ Immigration; Landlord & Tenant; Personal Injury; and Professional Negligence.
 43. No other practice areas were analysed, as the listed practice areas consist of those that are either the most common practice areas listed by barristers, or were areas identified by consultation with PCD staff as areas of practice that could contribute to a greater likelihood of being subject to a complaint.
 44. As with the modelling of complaint outcomes, in order to minimise bias in model selection, the variables used for the analysis were first selected by testing explanatory variables against the outcome variable (complaint or no complaint) using chi-squared/Fisher's exact tests, or t tests.

Limitations

Overall

45. For the regression modelling elements of this research, coefficients are only reported in the body of this report where the variables were statistically significant, and based on the dataset, would appear to be those most strongly associated with the outcomes being studied. The full models are included in the appendices. In the interests of transparency, and in order to avoid the introduction of bias into the model selection, this research did not attempt to identify more sparse models that excluded non-significant predictors, beyond the methodology used for the filtering of variables already detailed.
46. As already noted, regression models offer a statistical estimate of the relationships between variables based on the data available. Uncertainty in the models needs to be considered when looking at the results.

Complaint outcomes

47. The models developed for case outcomes relate to one randomly selected case with a decision for each barrister subject to a complaint during Jan 2015-Oct 2019. This means that data on additional complaints against barristers are not included, and so some information on the decision-making process regarding cases during Jan 2015-Oct 2019 is lost.
48. In comparison to cases closed without investigation, there are far fewer cases referred for

¹⁷ This included both general crime and corporate/fraud.

¹⁸ This included care proceedings.

disciplinary action,¹⁹ and extra caution should be taken when making inferences on the model relating to such cases.

Complaint likelihood

49. The dataset of the full practising Bar from Jan 2015-Oct 2019 excludes a number of individuals who were subject to complaints from the analysis (those who were not practising barristers in the period under consideration). As a result, the sample used for analysis of complaint likelihood represents a compromise that does not include all individuals who could potentially be the subject of a complaint, and does not include some of the individuals who were in fact subject to a complaint. As a result, this section of the analysis should be interpreted with a note of caution.
50. Analysis of complaint likelihood uses data on key demographic characteristics, and aspects of the practising status of barristers from the BSB's records. The data available to the BSB covering the majority of these areas is of good quality. However, two areas are a potential source of concern.
51. Ethnicity data are missing for just under 8% of those that practised at any point between 2014-Oct 2019. The analysis has therefore used three ethnicity categories – White, minority ethnic background, and missing data – to ensure that missing ethnicity data does not skew the results.
52. The other source of concern is data on practice areas. The analysis of complaint likelihood makes use of practice area data for explanatory variables in the regression models. The data held by the BSB on practice areas has been collected from 2018 as part of the Authorisation to Practise (AtP) process, which takes place around March each year. The data on practising area in the dataset used for this analysis are based on the most recent AtP declaration for each barrister. As such, some of the practising data used may not reflect the type of work undertaken by barristers at the time they were subject to a complaint between 2015 and October 2019. It also means that for some barristers who practised during the Jan 2014-Oct 2019 period covered by this analysis, no practice area data is available as they were not practising when these data were collected.
53. As a result, the findings relating to practice areas should be interpreted with caution, as the available data may not accurately reflect the areas of law regularly practised by individual barristers during the relevant period, nor the area from which the complaint arose, or the relative risk in each area of law of encountering those who are more likely to submit complaints. Nonetheless, these data have been included within the analysis as the area of law practised by barristers was seen as being a likely factor in whether they were subject to complaints, and the data used represents the best available record held by the BSB.

¹⁹ For all cases, around 13.5 per cent of cases were referred for disciplinary action compared to around 54.4 per cent of cases being closed without investigation. In the dataset where there was just one case per barrister during the period, around 10.3 per cent of cases were referred for disciplinary action compared to 59 per cent of cases being closed without investigation.

Results: Complaint outcomes

Cases closed without investigation

Initial testing of variables

54. Table 1 below lists the independent variables where chi-squared tests²⁰ identified statistically significant differences in the proportion of cases that were closed without investigation compared to the baseline (the proportion observed across all cases), for one randomly selected case decided upon from Jan 2015-Oct 2019 for each barrister.²¹

Table 1. Proportion of cases closed without investigation – For primary case aspect groups²²

Primary aspect group	Percentage of cases with this primary aspect type that were closed without investigation
All cases	59.0%
Criminal conviction	0.0%
Disciplinary finding by another body	0.0%
Failure to complete or comply with Authorisation to Practise	4.9%
Failure to comply with reporting requirements	5.3%
Failure to cooperate with the Legal Ombudsman	16.7%
Breach of requirements in relation to instructions	31.8%
Undertaking reserved legal activities when not authorised to do so	35.0%
Misleading court	77.9%
Breach of requirements in relation to witnesses	78.4%
Harassment/Discrimination	79.1%
Failure to administer chambers or practice properly	79.3%
Rudeness/Misbehaviour	80.0%
Misleading person client	81.5%
Breach of requirements in relation to evidence	82.6%
Misleading - other	87.7%
Abuse of position as a barrister	91.3%
Unsupported allegations	91.3%
Conspiracy collusion	97.1%

55. As can be seen in the above, no cases involving a criminal conviction as a primary case aspect, or those referred by another disciplinary body were closed without investigation. As a result, cases with these aspects were excluded from the regression model for complaints closed without investigation.²³ The associated risk level of these types of complaints means that they are always investigated.

²⁰ See footnote 15 for a brief explanation on what chi-squared tests are.

²¹ Table 1 does not include all variables used in the regression model later in this report. There are several variables that were not statistically significant but were below the threshold p-value of 0.2.

²² All variables in Table 1, 2 and 3 were found to be statistically significant at the $p < 0.05$ level using chi-squared tests for cases closed without investigation.

²³ Further information on why is given in Appendix IV in the separate technical annex.

Table 2. Proportion of cases closed without investigation – For case complainant groups

Case complainant group	Percentage of cases with this complainant type that were closed without investigation
All Cases	59.0%
Bar Standards Board	3.2%
Barrister	48.5%
Family	83.7%
Other	86.4%
Tribunal related cases	89.1%
Criminal defendant	89.2%
Civil Litigant	89.3%

56. Following analysis of the results to the above, it was decided that complainants would be more broadly grouped based upon a distinction between legal professionals and those who may have less knowledge of the conduct expected of a barrister as defined by the BSB Handbook. The groupings used are given in the methodology section.

Table 3. Proportion of cases closed without investigation – For barrister status and demographic groups

Barrister status/demographic group	Percentage of cases with this barrister status/demographic group that were closed without investigation
All Cases	59.0%
Sole Practitioner	37.9%
Unregistered	40.3%
Ethnicity: Minority ethnic background	44.0%
Ethnicity: White	62.8%
Self Employed	64.2%
Queen's Counsel	72.5%

Regression model results

57. After removing cases with aspect types which displayed only one outcome for cases closed without investigation (see paragraph 55), there were 1,642 cases left in the cases closed without investigation model.
58. The following variables were found to be statistically significant, when controlling for the other variables in the model, regarding the association between the variable and whether one randomly selected case decided upon against each barrister subject to a complaint from Jan 2015-Oct 2019 was closed without further investigation.
59. Variables associated with an increase in the likelihood of a case being closed without investigation:
- **Primary case aspect:** Compared to 'Other aspects'²⁴
 - **Abuse of position as a barrister:** Such cases were around 4.0 times more likely to be closed without investigation (Odds-ratio: 4.045, p-value (p) < 0.05).
 - **Misleading - other:** Such cases were around 2.2 times more likely to be closed without investigation (Odds-ratio: 2.249, p < 0.01).
 - **Unsupported allegations:** Such cases were around 6.0 times more likely to be

²⁴ Other aspects' covers all aspects not included as a unique category in the model, i.e. all aspects which did not display a statistically significant relationship with a case being closed without investigation (see paragraph 54).

closed without investigation (Odds-ratio: 6.008, $p < 0.05$).

- **Case Complainant:** Compared to where the complainant was a barrister
 - **Client/Tribunal related/Criminal non defendant/other non-legal professional:** Cases where the case complainant were in the above group were around 6.2 times more likely to be closed without investigation (Odds-ratio: 6.156, $p < 0.001$).
 - **Other:** Cases where the complainant was classed as “Other” were around 2.5 times more likely to be closed without investigation (Odds-ratio: 6.556, $p < 0.001$).
 - **Family law:** Cases where the case complainant was classed as a Family Law complainant were around 3.4 times more likely to be closed without investigation (Odds-ratio: 3.454, $p < 0.001$).
- **Decision Year:** Compared to 2015; Cases that were decided upon in 2017 were around 2.7 times more likely to be to be closed without investigation (Odds-ratio: 2.660, $p < 0.001$); cases that were decided upon in 2018 were around 1.6 times more likely to be to be closed without investigation (Odds-ratio: 1.591, $p < 0.05$); and cases that were decided upon in 2019 were around 3.1 times more likely to be to be closed without investigation in comparison to cases decided upon in 2015 (Odds-ratio: 3.074, $p < 0.001$).

60. Variables associated with a decrease in the likelihood of a case being closed without investigation:

- **Primary case aspect:** Compared to ‘Other aspects’²⁵
 - **Failing to comply with undertakings or court or regulatory orders:** Such cases were around 5.1 times less likely to be closed without investigation (Odds-ratio: 0.198, $p < 0.01$).
 - **Failure to cooperate with the Legal Ombudsman:** Such cases were around 7.9 times less likely to be closed without investigation (Odds-ratio: 0.127, $p < 0.05$).
 - **Failure to complete or comply with Authorisation to Practise:** Such cases were around 2.9 times less likely to be closed without investigation (Odds-ratio: 0.350, $p < 0.01$).
- **Case Complainant:** Compared to where the complainant was a barrister
 - **Bar Standards Board:** Cases with the BSB as the complainant were around 18.6 times less likely to be closed without investigation (Odds-ratio: 0.054, $p < 0.0001$).²⁶

61. The variable for gender was relatively close to statistical significance at the $p < 0.05$ level Barrister status/characteristics. Cases where the barrister subject to complaint was a male were around 1.4 times less likely to be closed without investigation (Odds-ratio: 0.729, $p = 0.07$). Results do suggest that there could be some level of predictive relationship between gender and whether a case was closed without investigation, even if it does not meet the threshold of statistical significance used in this report once other factors are controlled for.
62. Ethnicity was not found to be statistically significant predictor of whether complaints in the dataset used for the model were closed without investigation.
63. The full model results are given in Appendix I.

²⁵ Other aspects’ covers all aspects not included as a unique category in the model, i.e. all aspects which did not display a statistically significant relationship with a case being closed without investigation (see paragraph 54).

²⁶ This is to be expected, as the BSB will not initiate a complaint unless it has evidence that there may have been a breach of the rules.

Key Findings – Closed Without Investigation

- **Gender and Ethnicity** - There was not a statistically significant relationship between the gender or ethnicity of a barrister and whether a complaint against them was closed without investigation once other factors were taken into account.
- **Case Aspect** - No cases involving a criminal conviction were closed without investigation. Compared to 'other aspects', cases involving "failing to comply with undertakings or court or regulatory orders", "failure to cooperate with the Legal Ombudsman", or "failure to complete or comply with Authorisation to Practise" were less likely to be closed without investigation, whereas cases involving "abuse of position as a barrister", "misleading - other", or "unsupported allegations" were more likely to be closed without investigation.
- **Complainant** – No cases referred by another disciplinary body were closed without investigation. Compared to cases where the complainant was a barrister, cases where the complainant with the BSB were less likely to be closed without investigation, whereas cases where the complainant was a Client/Tribunal related/Criminal non defendant/other non-legal professional, a family law complainant, or 'Other' complainant were more likely to be closed without investigation.
- **Decision Year** – Cases that were decided in 2017, 2018 or 2019 were more likely to be closed without investigation than cases decided in 2015. There was no significant difference between 2015 and 2016 for this measure.

Cases referred to disciplinary action

Initial testing of variables

64. Table 4 below lists the variables where chi-squared tests identified statistically significant results ($p < 0.05$) regarding the proportion of cases that were referred for disciplinary action compared to the baseline (the proportion observed across all cases) for one randomly selected case for each barrister decided upon from Jan 2015-Oct 2019.

Table 4. Proportion of cases referred for disciplinary action – For primary case aspect groups^{27 28}

Primary aspect group	Percentage of cases with this primary aspect type that were referred for disciplinary action
All Cases	10.3%
Conflict of interest	0.0%
Conspiracy or collusion	0.0%
Failure to administer chambers or practice properly	0.0%
Failure to complete or comply with Authorisation to Practise	2.5%
Misleading the court	2.9%
Misleading - other	3.2%
Rudeness/Misbehaviour	3.2%
Failing to comply with undertakings, or court, or regulatory orders	31.3%
Breach of requirements in relation to instructions	31.8%
Failure to comply with reporting requirements	68.4%
Criminal conviction	85.5%

²⁷ Table 4 does not include all of the variables used in the regression model later in this report. There are several variables that were not statistically significant but were below the threshold p-value of 0.2.

²⁸ All variables in Table 4, 5 and 6 were found to be statistically significant at the $p < 0.05$ level using chi-squared tests for cases referred to disciplinary action.

Disciplinary finding by another body	90.9%
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65. As can be seen in the above, no complaints against barristers involving with a primary aspect of: Conflict of interest; Conspiracy or collusion; or Failure to administer chambers or practice properly were referred for disciplinary action during the period of analysis. Cases with these aspects were removed from the regression model for cases referred to disciplinary action as a result.

Table 5. Proportion of cases referred for disciplinary action – For case complainant groups

Case complainant group	Percentage of cases with this complainant type that were referred for disciplinary action
All Cases	10.3%
Criminal defendant	0.0%
Tribunal related cases	0.0%
Civil Litigant	1.1%
Family	3.4%
Bar Standards Board	27.5%

66. As can be seen in the above, no cases where the case complainant was a criminal defendant or where the case resulted from a tribunal were referred for disciplinary action during the period of analysis. The trends seen here, along with trends seen in previous PCD Annual Enforcement reports led to the further groupings of case complainants as seen in the regression models.

Table 6. Proportion of cases referred for disciplinary action – For barrister status and demographic groups

Barrister status/demographic group	Percentage of cases with this barrister status/demographic group that were referred for disciplinary action
All Cases	10.3%
Gender: Female	5.5%
Registered	7.5%
Self Employed	7.8%
Ethnicity: White	8.1%
Gender: Male	12.9%
Ethnicity: Minority ethnic background	18.9%
Unregistered	31.3%

Regression model results

67. After removing cases with aspect types which displayed only one outcome for cases referred to disciplinary action (see paragraph 65), there were 1,622 cases left in the referred for disciplinary action model.
68. The following variables were found to be statistically significant, when controlling for the other variables in the model, regarding the association between the explanatory variable and whether one randomly selected case decided upon against each individual barrister subject to a complaint from Jan 2015-Oct 2019 was referred for disciplinary action.
69. Variables associated with an increase in the likelihood of being referred for disciplinary action:

- Primary case aspect: Compared to 'Other aspects'²⁹
 - **Breach of requirements in relation to instructions:** Such cases were around 3.0 times more likely to be referred for disciplinary action (Odds-ratio: 3.035, p-value (p) < 0.05).
 - **Criminal conviction:** Such cases were around 13.9 times more likely to be referred for disciplinary action (Odds-ratio: 13.889, $p < 0.0001$).
 - **Disciplinary finding by another body:** Such cases were around 22.0 times more likely to be referred for disciplinary action (Odds-ratio: 22.039, $p < 0.01$).
 - **Failing to comply with undertakings or court or regulatory orders:** Such cases were around 5.4 times more likely to be referred for disciplinary action (Odds-ratio: 5.404, $p < 0.05$).
 - **Failure to comply with reporting requirements:** Such cases were around 4.9 times more likely to be referred for disciplinary action (Odds-ratio: 4.860, $p < 0.01$).
- **Barrister status/characteristics - Male:** Cases where the barrister subject to complaint was a male were around 2.1 times more likely to be referred for disciplinary action (Odds-ratio: 2.076, $p < 0.01$).
- **Case complainant - Bar Standards Board:** Compared to where the case complainant was another barrister, cases where the case complainant was the BSB were around 4.5 times more likely to be referred for disciplinary action (Odds-ratio: 4.5454, $p < 0.0001$).

70. Variables associated with a decrease in the likelihood of being referred for disciplinary action:

- **Primary case aspect - Failure to complete or comply with Authorisation to Practise:** Such cases were around 12.9 times less likely to be referred for disciplinary action when compared to cases with 'Other aspects' (Odds-ratio: 0.077, $p < 0.0001$).
- **Barrister status/characteristics – Registered barrister at time of complaint:** Cases where the barrister subject to complaint was registered (had an active Practising Certificate) were around 1.8 times less likely to be referred for disciplinary action (Odds-ratio: 0.541, $p < 0.05$).
- **Case Complainant - Client/Tribunal/Criminal non defendant/Other non-legal professional:** Compared to where the case complainant was another barrister, cases where the case complainant was one of the above were around 5.7 times less likely to be referred for disciplinary action (Odds-ratio: 0.174, $p < 0.001$).
- **Decision Year: Compared to 2015,** cases that were decided upon in 2017 were around 2.0 times less likely to be referred for disciplinary action in comparison to cases decided upon in 2015 (Odds-ratio: 0.493, $p < 0.05$); and cases that were decided upon in 2019 were around 3.3 times less likely to be referred for disciplinary action in comparison to cases decided upon in 2015 (Odds-ratio: 0.303, $p < 0.01$).

71. In addition, cases where the barrister subject to complaint was from a minority ethnic background were close to statistical significance at the $p < 0.05$ level. Such cases were 1.5 times more likely to be referred for disciplinary action (Odds-ratio: 1.546, $p = 0.08$) and results do suggest that there could be some level of predictive relationship between ethnicity and whether a case was referred for disciplinary action, even if it does not meet the threshold of statistical significance used in this report once other factors are controlled for.

72. The full model results are given in Appendix I.

²⁹ Other aspects' covers all aspects not included as a unique category in the model, i.e. all aspects which did not display a statistically significant relationship with a case being closed without investigation (see paragraph 64).

Key Findings – Referred to Disciplinary Action

- **Gender and Ethnicity** - There was not a statistically significant relationship between the ethnicity of a barrister and whether a complaint against them was referred to disciplinary action once other factors were taken into account. However, male barristers were more likely than female barristers to have cases against them referred to disciplinary action. This mirrors the findings of the analysis covering 2012-14.
- **Case Aspect** - No cases involving a Conflict of interest; Conspiracy or collusion; or Failure to administer chambers or practice properly were referred for disciplinary action. Compared to cases 'other aspects', cases involving Failure to complete or comply with Authorisation to Practise were less likely to be referred to disciplinary action, whereas cases involving a breach of requirements in relation to instructions, a criminal conviction, a disciplinary finding by another body, a failure to comply with undertakings or court or regulatory orders, or a failure to comply with reporting requirements were more likely to be referred to disciplinary action.
- **Complainant** – No cases where the case complainant was a criminal defendant or where the case resulted from a tribunal were referred for disciplinary action. Compared to cases where the complainant was a barrister, cases where the complainant with the BSB were more likely to be referred to disciplinary action, whereas cases where the complainant was a Client/Tribunal related/Criminal non defendant/other non-legal professional, were less likely to be closed without investigation.
- **Barrister status** - Cases where the barrister subject to complaint was registered were less likely to be referred to disciplinary action compared to cases involving unregistered barristers.
- **Decision Year** – Compared to cases decided on in 2015, cases that were decided in 2017 or 2019 were less likely to be referred to disciplinary action.

Results: Likelihood of being subject to a complaint

Internal Complaints

73. All selected barrister characteristics were analysed to identify where there were statistically significant differences in whether barristers were subject to an internal complaint. Table 7 below lists the barrister characteristics where the analysis identified statistically significant differences in the proportion of barristers subject to one or more internal complaints, and includes the proportion across all cases for comparison.

Table 7. Proportion of practising barristers subject to an internal complaint by barrister characteristics³⁰

Barrister Characteristics	Subject to one or more internal complaints
Whole sample	2.5%
White	2.1%
Minority ethnic background	4.3%

74. For variables relating to the practising status of the barrister, the analysis looked at the amount of time between Jan 2014-Oct 2019 a barrister had been registered with each given status. This approach was taken as barristers may have changed their status one or more times over this period, rather than spending the entire period with the same practising status. The average for barristers who had been subject to a complaint was then compared to the average across all barristers to see where there were statistically significant differences (i.e. where those who were subject to complaints were likely to spend more or less time with a given status than the sample as a whole).
75. Table 8 below lists the areas where this analysis identified statistically significant differences in the average amount of time spent with each status for barristers subject to one or more internal complaints when compared with the whole sample.

Table 8. Years within a given grouping by barrister status, on average – Grouping of practising barristers subject to an internal complaint compared with all practising barristers³¹

Barrister Status	Subject to one or more internal complaints – average	Whole sample – average	Those subject to one or more internal complaints – average (% of period with this practising status)	Whole sample – average (% of period with this practising status)
Employed Barrister	0.54 years	0.86 years	9.3%	14.8%
Self-employed Barrister	3.19 years	3.64 years	54.7%	62.4%
Sole Practitioner	0.51 years	0.16 years	8.7%	2.7%
Unregistered Barrister	1.36 years	0.99 years	23.3%	17.0%
Queen's Counsel	0.28 years	0.56 years	5.0%	9.9%
Years of Call	20.67 years	22.65 years		

³⁰ All variables in Table 7 were found to be statistically significant at the $p < 0.05$ level using chi-squared tests for whether a barrister was subject to an internal complaint.

³¹ All variables in Table 8 were found to be statistically significant at the $p < 0.05$ level using independent samples t-tests.

76. All other variables selected did not exhibit any statistically significant differences in the proportion or average value for those subject to one or more internal complaints.
77. All selected barrister practice areas were analysed to identify where there were statistically significant differences in whether barristers were subject to an internal complaint. Table 9 below lists the practice areas listed by barristers where the analysis identified statistically significant differences in the proportion of barristers who listed each practice area who were subject to one or more internal complaint: the proportion across all cases is included for comparison. All other practice areas analysed did not exhibit any statistically significant difference in whether a barrister was subject to an internal complaint.

Table 9. Proportion of practising barristers subject to an internal complaint by practice area³²

Barrister's Practice Areas	Percentage subject to one or more internal complaints
<i>Whole sample</i>	2.5%
Personal Injury	1.5%
Immigration	6.7%

Regression model results

78. The following variables were found to have a statistically significant relationship with the likelihood of barristers that practised at any time during the period 2014-Oct 2019 being subject to one or more internal complaints:
- Variables associated with an increase in likelihood of being subject to one or more internal complaints:
 - Ethnicity:** Barristers from minority ethnic backgrounds were found to be around 1.7 times (70%) more likely to be subject to an internal complaint compared to White barristers (odds-ratio [OR.] = 1.705; p-value (p) < 0.001).
 - Gender:** Male barristers were found to be around 1.3 times (30%) more likely to be subject to an internal complaint compared to female barristers (OR:1.306; p 0.008).
 - Immigration law as a main area of practice:** Barristers with immigration law as their main area of practice were around 1.8 times (80%) more likely to be subject to an internal complaint (OR. = 1.807; p 0.004).
 - Variables associated with a decrease in likelihood of being subject to one or more internal complaints:
 - Total number of years spent as an employed barrister:** For every year spent as an employed barrister, the likelihood of being subject to an internal complaint decreases by around 23% (OR. = 0.815; p = 0.004).
 - Total number of years spent as a QC:** For every year spent as a QC, the likelihood of being subject to an internal complaint decreases by around 11% (OR. = 0.903; p = 0.014).
 - Personal injury law as a main area of practice:** Barristers with personal injury law as their main area of practice were around 1.7 times (70%) less likely to be subject to an internal complaint (OR. = 0.603; p 0.034).
 - Total years of Call:** For every year of call, the likelihood of being subject to an in-

³² All variables in Table 9 were found to be statistically significant at the $p < 0.05$ level using chi-squared tests for whether a barrister was subject to an internal complaint.

ternal complaint decreases by around 1 per cent (OR. = 0.991, $p = 0.029$).

Key Findings – Subject to Internal Complaint

- **Gender and Ethnicity** - Barristers from minority ethnic backgrounds were significantly more likely than White barristers to be subject to an internal complaint, and male barristers were more likely than female barristers to be subject to an internal complaint. The finding for ethnicity mirrors the findings of the analysis covering 2012-14, but the finding for gender marks a departure from the previous analysis, where male barristers were not found to be more likely than female barristers to be subject to an internal complaint.
- **Practice Area** – Barristers practising in immigration law were more likely to be subject to an internal complaint, while barristers practising in personal injury law were less likely to be subject to an internal complaint.
- **Barrister status** – more years spent as an employed barrister; more years spent as a QC; and more years since call were all associated with a decrease in the likelihood of being subject to an internal complaint.

External Complaints

79. All selected barrister characteristics were analysed to identify where there were statistically significant differences in whether barristers were subject to an external complaint. Neither gender nor ethnicity showed any statistically significant differences in whether barristers were subject to an external complaint. This marks an interesting change from the analysis of complaints processed from 2012-2014, when male barristers were significantly more likely than female barristers to be subject to such complaints. This does not impact on the BSB's handling of complaints as the BSB has no ability to influence or control external complaints submitted.
80. For variables relating to the practising status of the barrister, the analysis looked at the amount of time between Jan 2014-Oct 2019 a barrister had been registered with each given status. This approach was taken as barristers may have changed their status one or more times over this period, rather than spending the whole of the period with the same practising status. The average for barristers who had been subject to a complaint was then compared to the average across all barristers to see where there were statistically significant differences (i.e. where those who were subject to complaints were likely to spend more or less time with a given status than the sample as a whole).
81. Table 10 below lists the areas where this analysis identified statistically significant differences in the average amount of time spent with each status for barristers subject to one or more external complaints when compared with the whole sample.

Table 10. Years within a given grouping by barrister status, on average – Grouping of practising barristers subject to an external complaint compared with all practising barristers³³

Barrister Status	Those subject to one or more external complaints – average	Whole sample – average	Those subject to one or more external complaints – average (% of period with this practising status)	Whole sample – average (% of period with this practising status)
Employed Barrister	0.38 years	0.86 years	6.5%	14.8%
Self-employed Barrister	4.55 years	3.64 years	78.0%	62.4%
Sole Practitioner	0.25 years	0.16 years	4.3%	2.7%
Unregistered Barrister	0.47 years	0.99 years	8.1%	17.0%
Public Access Registered Barrister	2.86 years	1.78 years	50.6%	31.5%
Years of Call	23.39 years	22.55 years	-	-

82. No other variables selected exhibited any statistically significant differences in the proportion or average value for those subject to one or more external complaints.
83. All selected barrister practice areas were also analysed to identify where there were statistically significant differences in whether barristers were subject to an external complaint. Table 11 below lists the practice areas listed by barristers where the analysis identified statistically significant differences in the proportion of barristers who listed each practice area who were subject to one or more external complaints: It includes the proportion across all cases for comparison. All other practice areas analysed showed no statistically significant difference in whether a barrister was subject to an external complaint.

Table 11. Proportion of practising barristers subject to an external complaint by practice area³⁴

Barrister's Practice Areas	Percentage subject to one or more external complaints
Whole sample	6.5%
Crime	5.3%
Personal Injury	4.7%
Employment	15.0%
Family	11.1%

Regression model results

84. The following variables were found to have a statistically significant relationship (where p-value < 0.05) with the likelihood of barristers that practised at any time during the period 2014-Oct 2019 being subject to one or more external complaints:
- Variables associated with an increase in likelihood of being subject to one or more external complaints:

³³ All variables in Table 10 were found to be statistically significant at the $p < 0.05$ level using independent samples t-tests.

³⁴ All variables in Table 11 were found to be statistically significant at the $p < 0.05$ level using chi-squared tests for whether a barrister was subject to an internal complaint.

- **Employment law as a main area of practice:** Barristers with employment law as their main area of practice were around 2.1 times (110%) more likely to be subject to an external complaint (odds-ratio (*OR.*) = 2.120; *p*-value (*p*) < 0.001).
 - **Family law as main area of practice:** Barristers with family law as their main area of practice were around 1.6 times (60%) more likely to be subject to an external complaint (*OR.* = 1.564; *p* < 0.001).
 - **Total number of years spent as a public access barrister:** For every year spent as a public access barrister, the likelihood of being subject to an external complaint increases by around 10 per cent (*OR.* = 1.099; *p* < 0.001).
 - Variables associated with a decrease in likelihood of being subject to one or more external complaints:
 - **Total number of years spent as an unregistered barrister:** Every year spent as an unregistered barrister was associated with around a 25 per cent decrease in the likelihood of being subject to an external complaint (*OR.* = 0.802; *p* < 0.001).
 - **Total number of years spent as an employed barrister:** Every year spent as an employed barrister was associated with around a 17 per cent decrease in the likelihood of being subject to an external complaint (*OR.* = 0.862; *p* = 0.005).
 - **Criminal law as main area of practice:** Barristers with criminal law as their main area of practice were around 1.25 (25%) less likely to be subject to an external complaint (*OR.* = 0.799; *p* 0.006).
 - **Personal Injury law as main area of practice:** Barristers with personal injury law as their main area of practice were around 1.5 times less likely (52 per cent) to be subject to an external complaint (*OR.* = 0.651; *p* 0.002)
85. Gender was significant at the $p < 0.10$ level, with male barristers associated with an increase in the likelihood of being subject to an external complaint. Although $p < 0.10$ is not generally taken as proof of statistical significance, this suggests that there may be a relationship between gender and increased external complaint likelihood.
86. Ethnicity did not display a statistically significant relationship with the likelihood of being subject to one or more external complaints for barristers that practised at any point between 2014 and 14 October 2019.

Key Findings – Subject to External Complaint

- **Gender and Ethnicity** - There was not a statistically significant relationship between the gender or ethnicity of a barrister and whether they were subject to an external complaint once other factors were taken into account. The finding for ethnicity mirrors the findings of the analysis covering 2012-14, but the finding for gender marks a departure from the previous analysis, where male barristers were found to be more likely to be subject to an external complaint.
- **Practice Area** – Barristers practising in family law or employment law were more likely to be subject to an external complaint, while barristers practising in criminal law or personal injury law were less likely to be subject to an external complaint.
- **Barrister status** – More years spent as a public access barrister was associated with an increase in the likelihood of being subject to an external complaint, whereas more years spent as an unregistered barrister; an employed barrister; or a QC were associated with a decrease in the likelihood of being subject to an external complaint.

Conclusions

Complaint Outcomes

87. There were a number of variables found to display a statistically significant association with the likelihood of a case from Jan 2015-Oct 2019 being closed without investigation, and with the likelihood of a complaint being referred for disciplinary action. This section will primarily focus on results regarding protected characteristics, overall trends, and comparisons with the previous research.
88. Ethnicity was not found to be a statistically significant predictor of whether complaints in the dataset used for the model were closed without investigation. The same can be said for gender, although gender was closer to statistical significance.
89. In contrast to the model on the likelihood of complaints being closed without investigation, gender was found to be statistically significant predictor of whether complaints were referred for disciplinary action. This means that the results do suggest that there could be some level of predictive relationship between gender and whether a case was referred for disciplinary action after they had been investigated by the BSB, with complaints against male barristers more likely to be referred for disciplinary action. The previous research also found the same trend.
90. In addition, the association between ethnicity and whether a complaint was referred to disciplinary action was close to statistically significance, with results suggesting that there may be some association between being from a minority ethnic background and having a complaint being more likely to be referred for disciplinary action, although it does not meet the threshold for significance used for this analysis.
91. It is not clear why gender and ethnicity would show such a relationship with the likelihood of being referred to disciplinary action. Chart A5.2 in the appendices, which uses the data used for the regression models, suggests that for ethnicity and for internal complaints there were a greater proportion of complaints referred for disciplinary action for barristers from minority ethnic backgrounds in comparison to White barristers prior to 2017, and that from 2017 onwards, there is no clear trend. There is also no clear trend in this regard for external complaints. This suggests that the association between ethnicity and the likelihood of an internal complaint being referred for disciplinary action may have become weaker from 2017 onwards.
92. Chart A6.2 suggests that there the proportion of internal complaints against males referred for disciplinary action is noticeably higher than the proportion of such complaints against females from Jan 2015-Oct 2019. It also suggests that the proportion of such complaints against female barristers being referred for disciplinary action dropped noticeably from 2017 onwards, whereas with the exception of 2017, the proportion of internal complaints against male barristers that were referred for disciplinary action remained relatively stable from January 2015 to October 2019. For external complaints, there is less of a clear trend for gender.
93. In addition, years since call was found to be non-significant in both complaints outcome models, and so it is likely that the protected characteristic of age does not have a significant relationship with whether a complaint is closed without investigation or referred for disciplinary action.
94. Much of the results are reflective of the BSB's risk-based approach to complaint handling in addition to the evidential basis frequently seen for certain types of complaints, with cases with some aspects rarely or never being closed without investigation, and such cases being far more likely to be referred for disciplinary action.
95. For example, given the role of barristers in the justice system, being subject to a criminal

conviction is incompatible with that role. Therefore, by policy, nearly all reports of criminal convictions will be investigated and referred to disciplinary action. Further, complaints that are supported by documentary evidence, such as failure to comply with court orders or non-completion of the Authorisation to Practise process, are more likely to be investigated due to the strength of the evidence that there has been a potential breach of the Handbook.

96. In addition, complaints raised by the BSB were both more likely to be referred for disciplinary action, and less likely to be closed without investigation. This is expected given that the BSB will not initiate a complaint unless it has evidence that there may have been a breach of the rules.
97. Results may suggest that some of the case aspects that were most associated with being closed without investigation, and least likely to be referred for disciplinary action have some link with awareness of what is expected in terms of the conduct of the opposing barrister for the person submitting the complaint. For example, no complaints were referred for disciplinary action during the period of analysis against barristers involving a conflict of interest; conspiracy or collusion; or failure to administer chambers or practice properly. No cases where the case complainant was a criminal defendant or where the case resulted from a tribunal were referred for disciplinary action during the period of analysis either.
98. Often cases from such complainants arise where the person complaining is not aware of what barristers can and cannot do during proceedings as defined by the BSB Handbook, and this frequently correlates with certain case aspect types. For example, as reported by the BSB Enforcement Department, complaints about misleading the court are often based on a misunderstanding of the nature of court proceedings and do not involve a breach of the BSB Handbook.
99. Such findings point to a potential gap in knowledge of the role of barristers and what conduct is allowed amongst non-barristers during legal proceedings. This is further backed up by the case complainants most associated with the likelihood of cases being closed without investigation (civil litigants, criminal defendants, cases resulting from tribunals, or where the complainant was classed as 'other'). A thematic review on cases submitted by litigants in person conducted by PCD and published in 2012 provided some insight into these issues, and had similar conclusions.³⁵
100. In the previous analysis of PCD complaints processing undertaken using complaints from 2012-2014; complaints from civil litigants and criminal defendants were more likely to be closed without investigation, whereas cases relating to a failure to cooperate with the Legal Ombudsman; cases involving a criminal conviction; and cases where the complainant was the BSB were less likely to be closed without investigation.
101. In addition, complaints from civil litigants, criminal defendants and resulting from tribunals were less likely to be referred for disciplinary action in the 2012-2014 models, whereas cases referred by another regulatory body; cases involving a criminal conviction; a failure to comply with a sentence (regulatory order); and cases where the complainant was the BSB were more likely to be referred for disciplinary action. All of the above findings are mirrored in this analysis.
102. There was some variability in the likelihood of cases being closed without investigation and referred for disciplinary action by decision year of the case. This was reflected in the regression model results. It may be reflective of the continuing development of a risk based approach to complaints processing.³⁶
103. This overall trend is reflected in charts A2-A4 in the appendices, which suggest a decrease in the proportion of cases referred for disciplinary action, and an increase in the proportion

³⁵ Bar Standards Board (2012). Professional Conduct Department - Thematic Review: Complaints Received From Litigants in Person.

³⁶ Information on our risk based approach to regulation can be found on the BSB website.

of cases closed without further investigation over time. Chart A4 shows that such trends are shown for both minority ethnic group and White barristers when disaggregating the data on complaint outcomes by year by ethnicity, while Chart A3 shows that the trend is seen for external complaints, but not for those brought by the BSB.

104. It is possible that area of practice is an important control variable missing from the models on complaint outcomes, and it may be a good idea to include area of law for cases when conducting future analysis on the outcomes of complaints. Overall, there are far fewer cases referred for disciplinary action than cases closed without investigation, and so there is more uncertainty in the results of the model for cases referred for disciplinary action than in the model for complaints closed without investigation, due to the smaller number of cases involved.
105. Cases referred for disciplinary action may also in many (but not all) circumstances be less straightforward than cases where there is clearly no breach of the BSB Handbook and the case is closed without investigation. The issue of what data is missing from the model may be of greater concern for more complex complaints. Further exploring the trends seen, and whether there are confounding factors (such as area of practice, cooperation of barristers subject to complaint etc) involved for gender and ethnicity and for case decision year would appear to be worth exploring further. It is also worth exploring, overall, what other variables, if any, display an unexpected association with a given complaint outcome, and why this may be.

Likelihood of being subject to a complaint

Internal complaints

106. Being from a minority ethnic background and having immigration law as a main area of practice were both found to have a statistically significant association with an increase in likelihood of being subject to an internal complaint for barristers that practised at any time between Jan 2014-Oct 2019.
107. Being from a minority ethnic background was also found to show a statistically significant relationship with the likelihood of being subject to an internal complaint in the previous research on PCD complaints covering 2012-2014. In this regard, the position has not changed significantly since the previous research.
108. Total years since Call, total number of years spent as a QC, having personal injury law as a main area of practice, and total number of years spent as an employed barrister were all found to have a statistically significant relationship with a decrease in likelihood of being subject to an internal complaint.
109. Gender did not show a statistically significant relationship with the likelihood of being subject to an internal complaint. This was not the case in the 2012-2014 research, which found male barristers to be more likely than female barristers to be subject to an internal complaint, suggesting there has been some change here.
110. Other elements of the findings for internal complaints also mirrored the findings of the earlier research covering 2012-2014. Years as a QC and years in employed practice were also found to be associated with a decrease in likelihood of being subject to a complaint in the previous research.
111. Some further exploration of the data is given in the appendices. This includes information on the relative likelihood of being subject to an internal complaint by complaint aspect and ethnicity. It would appear that barristers from minority ethnic backgrounds were more likely to be subject to all of the most frequent primary case aspects for internally brought complaints, whereas the pattern for external complaints was more mixed, suggesting that the trend seen

regarding ethnicity for internal complaints is not related to patterns seen for just a few complaint aspect types, but is indicative of a more general pattern. It is worth exploring further why barristers from minority ethnic groups appeared to be more likely to be subject to internal complaints for complaints decided upon by PCD from Jan 2015-Oct 2019.

External complaints

112. Being a family law practitioner, the number of years spent as a public access barrister, and practising in employment law were all found to have a statistically significant association with an increase in the likelihood of being subject to an external complaint for barristers that practised at any time between Jan 2014-Oct 2019.
113. The link between years spent as a public access barrister and likelihood of being subject to a complaint may partly be explained by such barristers having more dealings with clients without the buffer of solicitors and the provision of advice by solicitors on what the role of the barrister is and what conduct is expected of them. It would also be of interest to further explore what types of complaints those that undertake a lot of public access work are subject to, in case they are related to administrative processes.
114. Barristers practising in some areas of law such as employment are perhaps more likely to encounter unrepresented opponents in their work, who in some cases may lack understanding of what is expected of barristers with regards to their conduct, as suggested by the results to the regression models on complaint outcomes. This has also been proposed in Annual Enforcement Reports published by the BSB. Employment and Family Law were also two of the more frequently seen areas of law for complaints submitted by litigants in person highlighted in the 2012 thematic review of such complainants.
115. The number of years as an employed barrister, the number of years as an unregistered barrister, having criminal law as main area of practice, and having personal injury law as main area of practice all displayed a statistically significant association with a decrease in the likelihood of being subject to an external complaint.
116. Those working as employed barristers may be involved with the provision of in-house advice rather than providing services to the public, and so this may help to explain why they appear to be less likely to be subject to an external complaint. Barristers who spend more time unregistered would be expected to have less contact with members of the public or legal professionals in their capacity as a barrister, and therefore would also be expected to be less likely to be subject to external complaints.
117. Several of the findings for external complaints mirror the findings of the previous analysis undertaken using complaints from 2012-2014. Practising in employment or family law was also found to be associated with an increased likelihood of being subject to an external complaint in 2012-14, as was a greater amount of time spent as a public access registered barrister.
118. Gender and ethnicity were found not to be statistically significant variables in their relationship to the likelihood of being subject to an external complaint. In the previous analysis of PCD complaints male barristers were found to be around 1.5 times as likely to be subject to an external complaint. Although gender was close to statistical significance in this analysis (so it cannot fully rule out that gender may have an impact on the likelihood of barristers being subject to an external complaint), the effect was small and did not meet the threshold for significance used for this research. As such, the findings of this analysis differ from the previous analysis in this area.