

BAR STANDARDS BOARD

REGULATING BARRISTERS

Response to the Legal Services Board's Proposed Equality Objectives for 2012/13

The Bar Standards Board (BSB) welcomes the opportunity to respond to the LSB consultation on its proposed equality objectives for 2012/13. We share the views of the Chairman, expressed in his foreword, on the link between diversity in the profession and access to justice, and believe it is important for regulators to exemplify best practice in their own approach.

The BSB has a number of general comments:

1. The equality objectives proposed here are those which were originally published in 2010. It would be helpful for the consultation document to set out the evidence and data used in formulating these objectives along with a narrative that demonstrates why these particular objectives remain relevant and are priority areas for the LSB to address in 2012/13 and beyond. It would also be helpful if the document made reference to the LSB's overarching aims and objectives, and an explanation of how the equality objectives link into these.
2. It would be useful to include information on the process the LSB used for developing its equality objectives, for example the results of any consultation or engagement, to demonstrate the extent to which stakeholders were involved.
3. The consultation usefully contains a review of work already completed. This aspect would be further strengthened if it had a larger section about future plans and aspirations which contained more detail about the evidence base, and measurement of performance against the proposed equality objectives.

Moving to comment on specific paragraphs, the BSB offers the following comments:

4. The BSB's recent analysis¹ of employment data at the Bar shows clearly that the retention of female barristers is one of the most significant equality issues in the profession. Given this, we suggest that the objective in paragraph 3.3 to develop "a diverse workforce across the legal sector" could be broadened to reflect the additional need to retain diversity. We suggest re-wording the objective to read "*enhance and retain a more diverse workforce across the legal sector*".

¹ *Barristers Working Lives – A Biennial Survey of the Bar*, Bar Standards Board & Bar Council, 2011, www.barstandardsboard.org.uk/media/1385164/barristers_working_lives_30.01.12_web.pdf

5. Objectives should meet the requirement to be “SMART” (as stipulated by the Equality Act Specific Duties Regulations 2011). The objectives would benefit from greater detail, most notably in relation to timescales. Paragraph 3.2 refers to an “Action Plan” although the plan does not form part of the consultation document. We agree with the LSB that an action plan is central in assisting the reader to understand how the objectives will be implemented and monitored as well as clearly defining individual and organisational accountability for particular actions. An action plan would need to show how the outcomes for some of the more broadly worded objectives such as “factoring equalities and diversity into our research” in paragraph 3.4, or actions such as “encourage” and “engage” in paragraphs 3.3 and 3.4, will be measured and progress demonstrated. The BSB suggests that when the objectives are reviewed in the light of the consultation responses, there is a focus on ensuring that they are more specific and measurable, to facilitate better tracking of progress towards achieving the equality and diversity aims.
6. It is a legal requirement for equality objectives to address one or more of the arms of the general equality duty, and it is best practice to adopt objectives which cover all three arms. The Chairman notes in the foreword the importance of encouraging an independent, strong, diverse and effective legal profession. The LSB’s objectives as formulated focus on monitoring activities, but do not mention issues such as access to legal education which have a significant bearing on equality of opportunity. The LSB may wish to consider expanding the scope of their objectives to ensure that they are fully addressing all three arms of the equality duty.
7. The LSB commits in paragraph 3.4 to undertake equality analysis “where appropriate” when developing its programme of work and policies for consultation. As most policies will tend to have an effect on a wide range of people, be they legal professionals, staff or consumers and members of the public, we suggest that the words “where appropriate” do not convey the right message and should be removed. Instead, it would be useful to set out some criteria for impact analysis to help the reader understand which policies and practices will be scrutinised for adverse impact on equality.
8. The Equality Duty requires public bodies to assess impact both internally and externally, so it is important to address this in relation to those in the profession and the LSB’s own employees. Paragraph 2.28 makes reference to internal diversity data monitoring, but notes that “results are not statistically significant” due to the relatively small size of the LSB’s workforce. It would be helpful if the LSB explained how it intends to use this data to promote equality amongst LSB staff and how any issues will be addressed. Despite the LSB being a small organisation, it would be good practice to develop an equality objective in this area.
9. Finally, it would have been helpful to have more information on the section on “The Consumer Panel and Equality and Diversity” on page 13, i.e. on the nature of the activities the panel will be carrying out over the coming year, and how this work will further the equality objectives.