



## Momentum Measures: Creating a diverse profession

### Summary of Findings

The Bar Council's Momentum Measures report was commissioned by the Equality, Diversity and Social Mobility Committee in 2014. The Committee was particularly interested in understanding when the profession might reflect the population profile of England and Wales, in line with the Committee's aspiration to deliver 'a profession representative of all, for all'.

Momentum Measures look at data sets over a historical period to establish when – at the rate of change established – we might expect to secure parity between different groups.

Historical data is only available on gender and ethnicity and we have therefore focussed only on these areas in this report. The Bar Council collects data on other protected characteristics but sufficient data is not yet available to enable meaningful modelling on other strands.

#### Key findings:

1. The number of working age barristers is approximately three times the number of barristers with a current or recent practising certificate.
2. With respect to gender:
  - 2.1 There has been a clear movement towards gender equality at Call to the Bar with an approximate 50:50 balance being achieved in 2000 and having been maintained since.
  - 2.2 There is no evidence that women are under-represented in the attainment of pupillage.
  - 2.3 However, notwithstanding the increasing gender balance in Called working age barristers, current trends suggest that with the present model of practice at the Bar a 50:50 gender balance among all practising barristers

is unlikely ever to be achieved. This is for two reasons: women have a lower propensity to move from Call to practice and a higher attrition rate once in practice. The attrition is such that it would require a very long period of substantial imbalance in favour of women at Call to achieve a balance of women in practice. Modelling suggests that given current attrition rates approximately a 60:40 split in favour of women being Called to the Bar would be required to establish gender equality in practice.

2.4 The modelling shows that in respect of practising barristers of more than 15 years Call, and of Queen's Counsel (QCs), on current trends the practising Bar will not achieve gender balance in the foreseeable future.

3. With respect to ethnicity;

3.1 There has been a clear and very substantial movement towards a greater number of BAME barristers at Call with the population balance having been achieved around 1990 and exceeded ever since. However, this must be qualified by noting that a significant proportion of barristers Called in a given year are not UK domiciled and therefore may have no intention of working in England or Wales. Call records do not currently split domiciled and non-domiciled BAME students.

3.2 Due possibly to the large proportion of BAME barristers at Call who may return to their country of domicile, BAME barristers are less likely than their White British counterparts to attain pupillage. However, the proportion of pupils who are BAME still exceeds the proportion of BAME individuals in the general population.

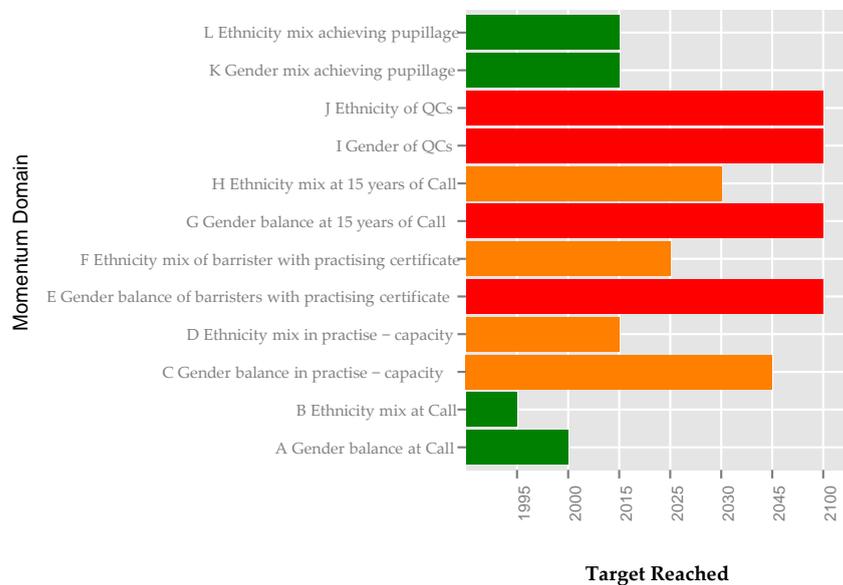
3.3 Modelling suggests that the Bar is on course to achieve the target 20:80 split between BAME and White British barristers in practise in the near future. The slightly greater attrition of BAME barristers is more than compensated for by their greater prevalence in pupillage.

3.4 In respect of practising barristers of more than 15 years Call, on current trends the practising Bar will achieve the ethnicity target in a relatively short time horizon.

3.5 In respect of BAME QCs, on current trends the practising Bar will not achieve an ethnicity balance.

4. The findings have potential policy implications;
  - 4.1 In respect of gender balance, they indicate that future action might need to be directed at either increasing further representation of women at Call to the Bar or in reducing attrition and increasing conversion from Call to practice.
  - 4.2 In respect of ethnicity they indicate that most aggregate targets (except for QCs) have already been achieved or are imminent and that it may be necessary to focus on smaller, under-represented ethnic groups rather than all BAME groups together.
5. The methods used in preparing this report might usefully be applied to analyse different groups within the practising profession, according to their area of practice, whether they are employed or self-employed or their geographic location.
6. The table and graph numbers referenced throughout this summary have been kept the same as how they appear in the original Momentum Measures report.

**Figure 14: ‘Traffic light’ summary of momentum**



## **Background and methodology**

7. The domains in which momentum are measured are gender and ethnicity. Gender balance is easy to conceptualise and given the relative invariance of gender proportions across populations and over time, relatively easy to set a target for. Ethnicity is neither so easily summarised nor measured – and it varies substantially across areas, regions and time. It is thus not so easily targeted.

8. In this report we specify straightforward targets. Gender balance is taken as a 50:50 split between men and women and ethnicity is defined in terms of just two categories for which data is readily available – Black, Asian Minority Ethnic (BAME) and White British. The target is taken as approximating the proportions of these categories in the population of England and Wales; 20:80. Both of these targets could be subject to debate and refinement but they can be viewed as a pragmatic first step towards measuring momentum.

9. Bar Council records permit a number of ways of defining the profession and the practising profession. We distinguish between those who are Called to the Bar, and those who are practising. This latter term is taken as barristers who hold a practising certificate. In respect of the former we establish the extent of the profession and how this has changed over time by defining working age cohorts and in respect of the latter we use records of practising certificates.

10. For data analysis and modelling, three working age cohorts each covering a 10 year period were developed. Cohort 2002 comprised all barristers with a date of Call between 1967 and 2002, Cohort 2007 comprised all barristers with a date of Call between 1972 and 2007 and Cohort 2012 being all barristers with a date of Call between 1977 and 2012. The characteristics of barristers in each of these cohorts provided a view of the structure of the profession at those dates. Whether members of these cohorts were practicing as barristers could not be established, but this enabled us to build a model whereby we could establish the probability that a randomly selected member of a cohort might be a woman or ethnic minority.

11. Bar Council records have only a limited history of barristers' practising certificates and so for some analysis it was necessary to combine data into a simple statistical model of practice at the Bar.

12. Data on working age cohorts reveals a profession that has shifted substantially towards gender balance over the last 10 years and has already achieved one notion of a target for ethnicity. Data on barristers holding practising certificates indicates that the

trends in working age cohorts have not obviously translated into the practising profession.

13. The preparation of this Momentum Measures report required some novel interpretation and analysis of records data. The analysis has been recorded for future development.

## Detailed findings

Table 2 illustrates that the number of working age barristers is approximately three times the number of barristers with a current or recent practising certificate. The number of working age barristers increased between 2002 and 2012 by approximately 7,000 (about 16%). The number of barristers with a practising certificate has been stable from 2012 to 2014.

**Table 2: Summary of barrister numbers by cohort and practising certificate**

	Cohort	Number of barristers
Are in the data set		57,658
Held Practising Certificate in 2012		15,678
Held Practising Certificate in 2013		15,763
Held Practising Certificate in 2014		15,519
Are in Cohort2002		42,374
Are in Cohort2007		46,997
Are in Cohort2012		49,317

## Momentum question:

### 1. When will the numbers of men and women Called to the Bar of England and Wales match their proportions in the population of England and Wales?

This is a question about the gender of individuals at the time they are Called to the Bar. Women started outnumbering men at call around the year 2000 and have generally continued to do so since then. Hence, we can conclude on the basis of the records data that this momentum measure was actually achieved approximately 14 years ago.

### 2. When will those Called to the Bar of England and Wales match the number of individuals who self-identify as BAME in the population of England and Wales?

The target destination in respect of ethnicity is to have 20% of barristers BAME. At call, the momentum target was exceeded in the early 1990s. Since 2010, self-identifying BAME barristers constitute more than 50% of those Called to the Bar.

The target should, however, be approached with caution. A large number of BAME barristers Called in any given year are not domiciled in the UK and have no intention of working at the English and Welsh Bar. A better sense of momentum in respect of ethnicity can be gained by considering practising barristers and the process of becoming a practising barrister through pupillage.

**3. When will the numbers of men and women securing pupillage in England and Wales match their proportions in the population of England and Wales?**

As a measure of success in achieving pupillage we use an indicator of whether a barrister attains a pupillage within 5 years of Call. The great majority of pupillage is obtained within this time scale. There is a slight imbalance in achieving pupillage in favour of women. Calculations suggest women are no less likely to obtain pupillage than men.

**Table 14: Percentage of barristers (Called since 2000) achieving pupillage within 5 years – Gender**

	Female	Male	PNTS
Not a Pupil within 5	86.83	87.85	42.86
Pupil within 5	13.17	12.15	57.14

PNTS: Prefer not to say

As a further investigation, we considered some regression models of the pupillage indicator in which success in achieving pupillage is related to year of Call, gender and the interaction of gender and year of Call. These regression models, details of which are available on request, also confirm that this momentum destination has already probably been reached.

**4. When will those securing pupillage in England and Wales match the number of individuals who self-identify as BAME in the population of England and Wales?**

The percentages of barristers in achieving pupillage in 5 years from their year of Call are reported in Table 15.

**Table 15: Percentage of barristers (Called since 2000) achieving pupillage within 5 years – Ethnicity**

	BAME	Unknown	White British
Not a Pupil within 5 Years	91.94	92.01	80.94
Pupil within 5 Years	8.06	7.99	19.06

The table indicates that White British barristers are approximately twice as likely to secure pupillage in five years compared with BAME barristers. However there are a number of points to consider in interpreting this disparity.

First, the category 'Unknown' is large, and if this corresponds to the same mixture of White British and BAME barristers for which ethnicity is known, the differential in securing pupillage is smaller than suggested by the table.

Second, the proportion of individuals Called to the Bar who are BAME substantially exceeds the proportion of BAME individuals in the population of England and Wales, but a large number of these may have no intention of working in England and Wales; hence a lower probability of achieving pupillage does not reflect a lower probability of success but simply an artificially large pool of BAME barristers at Call. This second effect is quantitatively important. Since 2005 the proportion of those Called to the Bar who are BAME has approached 50%. If these are half as likely to secure pupillage as their White British counterparts, the proportion of pupils who are BAME will still be 25%, whereas the target in respect of reflecting the overall population of England and Wales is 20%. Hence, it appears probable that this momentum destination has already been reached but there would be value in further research into the domiciliary nature of BAME barristers at Call.

##### **5. When will the numbers of men and women practising at the Bar of England and Wales match their proportions in the population of England and Wales?**

There are alternative views of what constitutes the practising Bar. Whilst there is no definitive information regarding whether individuals are supplying advocacy services, Bar Council data identifies those who have qualified to provide legal services, through being Called to the Bar, and those that are currently entitled to conduct reserved legal activities on account of having a practising certificate. Individuals Called to the Bar who do not have a practising certificate may nevertheless supply legal services provided that they are not reserved activities. Furthermore, barristers with a practising certificate may choose not to practice. For the purposes of this report we focus on practise in the sense of holding a practising certificate.

Referring to Cohort Data, there has been a steady increase in the proportion of qualified working age barristers that are female. This increased from 36% to 44% over a ten year period. There is thus evidence that if this trend continues the momentum destination (50%) in terms of capacity will be achieved in the next 10 to 15 years. There are reasons why this might be overly optimistic. The intake to the profession

has already achieved greater than 50% female proportion. It is therefore unlikely that this intake proportion will increase much further; and the large increases in the female proportion in the working age cohort seen from 2002 to 2012 will in part reflect the rapidly increasing female intake over that period. Nevertheless the Bar appears to exhibit genuine momentum in regard to increasing representation of women in the realm of those Called to the Bar and we think it reasonable to extrapolate the trend and infer that the momentum destination in this sense will be reached and can be expected to be achieved within 20 years.

The position in respect of the Certificate Data, and hence in regard to practising barristers in the narrower sense of those entitled to engage in reserved legal activities, is far less clear. We are currently restricted to considering only three years of data and those data do not exhibit any discernible trend. The proportion of barristers who are women with a current practising certificate appears to be stable at 35%. This is both further from the momentum destination and evolving, if at all, very slowly.

The discrepancy between the dynamic view of the profession offered through the cohort window and the more static view offered by certificate window may have a number of explanations. It could simply be a matter of the time frame of the data, it could be an issue of female barristers having a higher propensity to leave practice and take career breaks or it could be for other reasons.

To examine this issue further and to provide an indication of momentum in regard to practising barristers we combine the information available in the records data to construct a simple model of the likely evolution of the practising profession. We used the data on those individuals who hold a practising certificate in 2013 and considered what proportion of the relevant capacity of Called barristers they represent. We did this separately for men and women. The resulting proportions can be interpreted as the probability of individuals being in practice given their year of Call and gender.

This approach suggests that as individuals are Called to the Bar, there is a process by which they either convert or do not convert into practising barristers and then either survive or do not survive in the practising profession. If the conversion and survival rates are different for men and women then the practising profession may evolve so as to reflect a different pattern of practice to the pattern of Call that is observed – and that has been moving towards gender balance.

As with any model, a prediction exercise is predicated on making assumptions. The key assumptions for the analysis is that the proportion of barristers at Call will remain at approximately 50% as has been observed since 2000 and that the survival and conversion proportions of men and women barristers will remain as they have

been. However, both of these assumptions can be varied and the implications examined.

Other things equal, women are less likely to convert into practice and more likely to leave practice than men. This has the immediate implication that achieving gender balance at Call will not necessarily result in gender balance at practice. We modelled the difference in the probability that female and male barristers of a given year of Call will have a practising certificate in 2013. The difference was always positive – favouring men – and thus indicates that for a given capacity of men and women in the profession the utilisation of men is greater than that of women. Overall men have an average 8% higher probability of practising conditional on having been Called to the Bar, with the difference higher for middle years of Call.

The model has been run over a long period. The assumption is that women will continue henceforth to constitute 50% of barristers Called. Calculations indicate even in the long run (75 years from the present) the proportion of practising barristers will not reach 50%. For a 50:50 intake, the proportion of practising barristers who are women reaches a maximum of approximately 44%. The model predicts that it will take approximately 30 years to reach that position which is then a steady state – other than the effect of random variation, the proportion of practising barristers who are women is constant.

This model is informative on a number of issues. First it can establish, given the assumptions, what proportion of barristers being Called would need to be women in order to ultimately achieve gender balance; the answer is approximately 58%. It can further establish what other factors might increase the extent of gender balance; critical here is the reduced retention of women in the profession at the middle year of Call.

In regard to the primary line of enquiry regarding momentum, the model suggests that on current trends and given current recruitment, gender balance of barristers in practice will never be reached. Furthermore, even given the current balance in terms of Call to the Bar it will take upwards of 30 years for the female proportion of practising barristers to rise to 44%.

The above can be summarised as suggesting that there is a substantial difference between momentum in the sense of capacity – the Bar can be expected to achieve gender balance at Call over the next 30 years, and momentum in the sense of practice – on current trends the Bar will never achieve gender balance. The critical policy issue is that to achieve the latter, balance would seem to require either; ensuring that

women are over-represented at the point of being Called to the Bar, or that their attrition from the profession is substantially reduced, or both of these.

**6. When will the number of practising barristers who self-identify as BAME match their proportions in the population of England and Wales?**

The data and evidence for BAME barristers is less ambiguous. The momentum destination (a 20% component of BAME barristers) has either been reached – in the case of the Cohort Data – or is very close to being reached – in the Certificate Data. To this we can add the proportion of barristers who are BAME and newly Called to the Bar (which exceeds 50%). As these individuals become a greater proportion of the working age population of barristers, that population (a proportion of which will be practising) will become increasingly BAME.

The same model applied to gender was applied to ethnicity to establish whether BAME barristers display either lower conversion to practice, or retention in the profession, to such an extent as to impede the apparent momentum we observe in both cohort and certificated data.

We found no substantial differences in conversion or retention between BAME and White British barristers evident in the records data. There is a small tendency for BAME barristers to display lower retention but such differences as there are do not over-turn the fundamental momentum towards ethnic balance (bearing in mind the caveats regarding how this can be measured) that is a consequence of increasing and substantial BAME representation of barristers at Call. Further, the model suggests that even if the proportion of barristers who are BAME at Call were to fall substantially from its current level, the practising profession would nevertheless achieve parity with the overall population, in terms of the BAME/White British, distinction within the next 20 years at most. For most reasonable assumptions that parity is predicted to be achieved within the next 10 to 15 years.

Modelling predicts a rapid increase in the BAME proportion of practising barristers from the current 17% level, towards 20% and beyond within 10 years.

There are a number of caveats in relation to these ethnicity findings. First, and as noted earlier, measurement in the domain of ethnicity is problematic and the target of 20% BAME is only one of many possible targets. Second, as also noted earlier, records data in relation to ethnicity is incomplete (there are many barristers for whom ethnicity is not available). If there is systematic under-reporting by some groups, this could skew our findings. For this report we have treated data as missing as random – this would seem a sensible first step.

Notwithstanding these issues, momentum in respect of ethnicity seems secure. In summary; in both the capacity and utilisation senses of 'practising' it is reasonable to predict that the Bar has either already, or will fairly imminently achieve the momentum target in this domain.

As an adjunct to the analysis of this and the previous momentum questions it is possible to consider the distribution of barristers' gender for different ethnic groups. This is beyond the scope of the research questions set out for this report, but Table 16 shows the proportion of barristers (amongst those with 2013 practising certificates) who fall into a combination of gender and ethnicity groupings.

**Table 16: Percentage of barristers (with 2013 Practising Certificate) in different gender and ethnicity groups**

	BAME	Unknown	White British
Female	44.79	38.37	33.27
Male	54.74	61.43	66.55
PNTS	0.46	0.20	0.18

Table 16 illustrates that the practising Bar is closer to gender balance in BAME practitioners than in White British practitioners. In this sense a move towards greater ethnicity balance is conducive to achieving greater gender balance, and vice versa.

## **7. When will the numbers of men and women who are still practising at 15 years' Call in England and Wales reflect the population of the UK?**

The issues that arise here are the same as identified in respect of all practising barristers – except analysis is simply restricted to those barristers with 15 (or more) years of Call. The following tables express as proportions those who are in the relevant groups.

**Table 17: Gender of barristers of 15 (or more) years of Call – proportions**

Gender	Cohort 2002	Cohort 2007	Cohort 2012	Certificate 2014
Female	0.24	0.30	0.36	0.28
Male	0.76	0.70	0.64	0.72
PNTS	0.00	0.00	0.00	0.00

If we consider the broader definition of practice – the capacity to practice at the Bar – a similar picture emerges in respect of experienced barristers as has been described for all barristers. Whilst there is momentum in respect of gender the target destination for gender is still some way away. This is not surprising; most of the changes in the

gender balance of individuals Called to the Bar have occurred in the last 15 years. These individuals are still making their way in the profession and are not yet counted in amongst the experienced group. The most recent cohort exhibits four percentage points more female experienced barristers than the cohort five years previously. If the same trend as exhibited in these data continues, the proportion of female barristers will equal that of male barrister in between 20 and 30 years' time. However, as noted in the equivalent question in terms of all barristers there are reasons to be cautious about extrapolating this trend and we would therefore choose a figure towards the top end of this range.

In regard to the narrower definition of practice – having a practising certificate – we are again constrained by the short time series of data available. The gender target is even further away on this measure but the model constructed is informative. Since (i) it predicts that gender balance in practice will not be achieved, and (ii) it is predicated on the observed greater attrition from practice of women, especially in the middle years of practice, that gender balance at 15 years of Call will not be obtained.

**8. When will the number of individuals who self-identify as BAME and who are still practising at 15 years' Call in England and Wales reflect the population of the UK?**

**Table 18: Ethnicity of barristers of 15 (or more) years of Call – proportions**

Ethnic Group	Cohort 2002	Cohort 2007	Cohort 2012	Certificate 2014
BAME	0.12	0.15	0.19	0.15
Unknown	0.00	0.00	0.00	0.00
White British	0.88	0.85	0.81	0.85

In regard to the broader definition of practice, the momentum target of ethnicity has, once again, already been reached or is very close to being reached. Table 18 shows that 19% of experienced barristers are BAME and that this is on a rising trend.

The position in regard to ethnicity is more positive even in respect of the narrow definition of practice. The very substantial BAME intake to the Bar in recent years would seem to be working its way through the profession and the target is not that far away. Currently 15% of experienced practising barristers are BAME and it is reasonable to expect this to increase towards the target 20%. We have run the model with particular focus on barristers of more than 15 years of Call and it mostly predicts the achievement of the 20% target for BAME within 15 to 20 years.

**9. When will the numbers of men and women who are QCs in England and Wales reflect the population of the UK?**

The issues that arise here are the same as identified in respect of barristers with 15 years of Call. The following table expresses (as proportions) those who are QCs.

**Table 19: Gender of barristers who are QC – proportions**

Gender	Cohort 2002	Cohort 2007	Cohort 2012	Certificate 2014
Female	0.13	0.15	0.17	0.13
Male	0.86	0.85	0.83	0.86
PNTS	0.00	0.00	0.00	0.00

In respect of gender, there is no group (either Called or in practice) where the proportion of women who are QC exceeds 20% – less than a half of that required for the momentum destination.

Since there is no clear evidence of movement in regard to this measure it would seem reasonable to conclude that on current evidence the destination is unlikely to be reached.

**10. When will the numbers of QCs who self-identify as BAME practising in England and Wales reflect the population of the UK?**

The issues that arise here are the same as identified in respect of barristers with 15 years of Call. The following table expresses (as proportions) those who are QCs.

**Table 20: Ethnicity of barristers who are QC – proportions**

Ethnic Group	Cohort 2002	Cohort 2007	Cohort 2012	Certificate 2014
BAME	0.08	0.09	0.10	0.10
Unknown	0.00	0.00	0.00	0.00
White British	0.92	0.91	0.90	0.90

In respect of ethnicity, there is no group (either Called or in practice) where the proportion of BAME barristers comprise more than 10% of QCs.

Since there is no clear evidence of movement in regard to this measure it would seem reasonable to conclude that on current evidence the destination is unlikely to be reached.

**Table 21: Research questions as set out in proposal and provisional answers**

<b>Research Question</b>	<b>Commentary</b>
What is (are) the appropriate comparator groups for assessing momentum at the Bar?	50% for gender and 20% for ethnicity.
<i>What are plausible momentum measures, specifically, in what year can we project that;</i>	
The numbers of men and women Called to the Bar of England and Wales will match the comparator group(s)?	<b>Already achieved</b> (Confidence High).
The number of individuals who self-identify as BAME who are Called to the Bar of England and Wales will reflect the comparator group(s)?	<b>Already achieved</b> (Confidence High).
The numbers of men and women securing pupillage in England and Wales will reflect the comparator group(s)?	<b>Already achieved.</b>
Those securing pupillage in England and Wales will reflect those who self-identify as BAME in comparator group(s)?	<b>Already achieved.</b>
The numbers of men and women practising at the Bar of England and Wales will reflect the comparator group(s)?	Using the broad definition of ‘capacity’ to practice the expectation is that this will be achieved in approximately 20 years. In respect to holding a practising certificate this is <b>never</b> likely to be achieved on current trends.
The number of individuals who self-identify as BAME practising at the Bar will reflect the comparator group(s)?	Following the distinction above, in the broader sense <b>already achieved</b> , in the more focused sense <b>probably imminent</b> .
The numbers of men and women who are still practising at 15 years Call in	In the broader sense, probably within 30 years (Confidence Moderate) in the

England and Wales will reflect the comparator group(s)? focused sense **never** on current trends.

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The number of individuals who self-identify as BAME still practising at 15 years Call will reflect the comparator group(s)? In the broader sense **already achieved** (Confidence High) in the focused sense probably within 15 years (Confidence low).

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The numbers of men and women QCs in England and Wales will reflect the comparator group(s)? **Never** likely to be achieved on current trends.

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The number of QCs who self-identify as BAME will reflect the comparator group(s)? **Never** likely to be achieved on current trends.

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To what extent is it possible to identify the effect that changes to the profession since 2010 have had on momentum in respect of the number of women practising at the Bar of England and Wales? This is not discussed in the main body of the report but the insights gained from studying the records data strongly suggest that these changes are too recent to have a discernible effect.

The statistical analysis was undertaken for the Bar Council by Professor Martin Chalkley in 2015. Martin also drafted the original report.

For a copy of the original report, please email [Equality@BarCouncil.org.uk](mailto:Equality@BarCouncil.org.uk).