

## **Supervision Department – staff structure**

### **Introduction**

1. The purpose of this note is to set out the structure of the Supervision Department and to demonstrate how with the flexible management of resources there will be adequate staff for 2014/15 in order to meet the demands of supervision.
2. Annex A provides the structure of the Supervision Department. The Department is responsible for three main areas of activity:
  - QASA
  - Risk based supervision
  - Entity authorisation
3. QASA is a discrete area of activity and the two members of staff allocated to the Scheme will be focussed on its administration and management. However, the expertise of those staff within this function is of relevance to the wider supervision and authorisation activities. Where there is capacity therefore, they will be engaged in non-QASA work.
4. All of other members of the Department will be available to Supervision and Authorisation activities and can be diverted to where there is the greatest need or demand.
5. This paper focuses on the resource requirements for the supervision of chambers and entities. Resource planning for the authorisation process will be undertaken in due course and once further research has concluded into the likely scope and volume of entity applications.

### **Context**

6. Risk based supervision is a new activity for the BSB. In part it builds on a monitoring approach to compliance which the BSB has operated over the last three years. A shift towards more proactive supervision has required a reshaping of the Department's resources to ensure that there is sufficient capacity and capability to meet the demands in this area of activity.
7. Given that this is a new areas of regulation for the BSB, the resource planning for the Supervision Department has been undertaken for the first 12 months of operation. This allows for lessons to be learnt and changes to be made once there is a greater degree of certainty about the level and number of resources required to operate an effective supervision and authorisation regime. To over-resource the Department in the absence of any concrete evidence in particular on the likely take up for entity regulation would be financially unwise and could lead to inflated authorisation fees (given that the intention is to operate a cost recovery model for entity authorisation).

### **Resourcing model**

8. The Supervision Department will in part be resourced by current members of staff with a range of regulatory experience. This will be complemented by the introduction of new resources with the primary intention of addressing any identified skills gaps. For example, we have recruited, as the Entity and Chambers Supervisor, Julia

Witting who brings extensive experience of financial analysis and management, financial risk and compliance and auditing and monitoring. This experience will be particularly useful in the context of entity regulation and authorisation but will also be a valuable resource as the supervision of Chambers develops further.

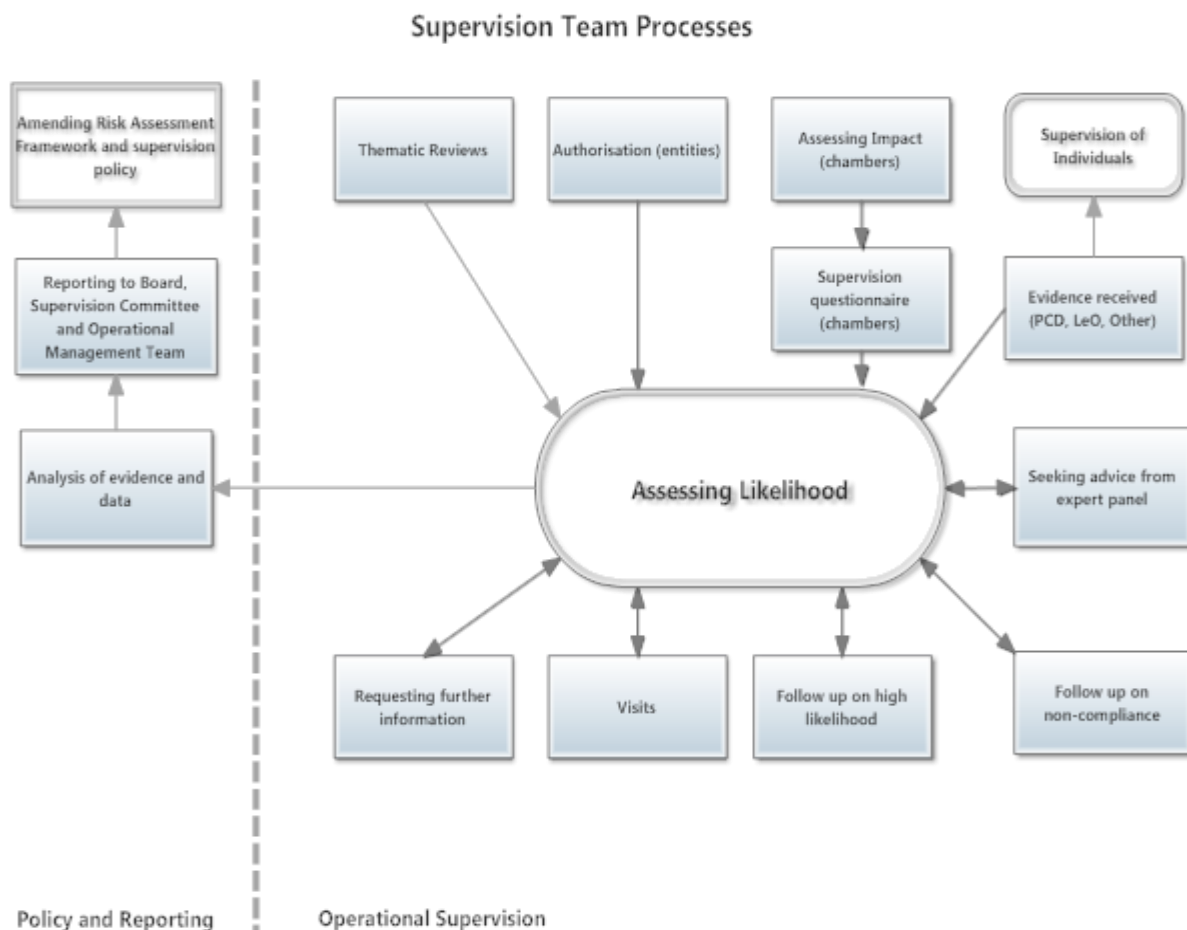
9. Further recruitment will be made to the Department to increase capacity and capability particularly in relation to the administration and management of Chambers.
10. The structure of the Department and the job descriptions of each member allow for a flexible resourcing model which has the agility to adapt to the demands of supervision/authorisation activity. Each member of the Department will be trained to work across a range of activities. Further, there is flexibility in the operating model for supervision to allow for spikes in authorisation activity (which is the area where it is most difficult to plan given the uncertainty over the likely number of applications) to be adequately resourced. Contingency resource planning is also being explored with a view to training staff outside of the Supervision Department who have the right capacity and capability to assist should additional resources be required to address a particular spike in activity.

#### **External panel of advisors**

11. A panel of advisors is being established with representatives with expertise in each area of regulatory activity. The panel will provide a valuable additional resource to the Supervision Department, particularly in the early stages of operation as the expertise within the Department develops.

### Supervision processes

12. Once operational, the Supervision Department will be undertaking a number of different processes.



13. It can be seen from this diagram that the majority of the processes will be concerned with the supervision of chambers and entities. By contrast, the supervision of individuals will be a largely separate process that will account for much less time.

### Specific processes

14. Included below in the Appendix are process maps for each of the main processes that are set out above.

15. Based on a number of assumptions, estimated resource requirements are set out in the maps for each stage of each process. These are the estimated number of days that each process will take over 2014-15. The maps record resource requirements as Administration, Supervisor or Other. The section below on Team Roles sets out what staff roles will cover each category.

Process	Assumptions (2014-15)	Admin	Other	Supervisor
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		days	days	days
Assessing impact	Process to occur once for 800 chambers	36	35	12
Initial supervision questionnaire	Process to occur once for 400 chambers and 50 entities	47	50	61
Requesting further information	Required for 100 chambers/entities	0	0	23
Follow up on high likelihood	Required for 100 chambers/entities	18	1	28
Follow up on non-compliance	Required for 45 chambers/entities (10% rate of non-compliance)	9	1	25
Visiting chambers/entities	70 visits	12	60	90
Received evidence handling	Likely to occur every two weeks	0	2	25
Seeking advice from expert panel	Up to 50 occasions	2	0	16
Thematic review	One review	30	45	25
Supervision of individuals	50 individuals	12	0	45
Producing reports and analysing evidence	Twice a year	1	50	8
	<b>Total</b>	167	244	358

16. Overall, this equates to 769 days across all tasks and across all of the processes. One Full Time Equivalent is 220 days a year and therefore this is 3.5 FTE (770 days). However, in addition to the above processes, there will also be a number of ongoing policy functions to discharge, which will include the following:

- Deciding upon supervision priorities and future policy
- Speaking at events to explain supervision
- Explaining and justifying the approach to supervision to LSB and other key stakeholders
- Managing relationships with the Bar Council and other support resources
- Managing information sharing with LeO
- Maintaining guidance and other policy documents
- Agreeing monitoring approach to new rules etc. with relevant departments

17. These additional functions will be mainly undertaken by the Supervision and Policy Manager and the Head of Supervision.

18. The visits process is one of the more flexible processes. While it has been estimated that 70 visits will be undertaken during 2014-15, this number could be decreased if

any of the other processes require more resources than estimated or increased if other processes take less time and staff have time to undertake more visits. In normal circumstances 2 members of staff will attend a visit. This will be one supervisor and one other member of staff. The Head of Supervision and QASA Officer will be able to assist with visits if required.

### Department roles

19. The following roles would be required in order to ensure the requisite expertise and experience to discharge the required tasks:
20. The Supervision and Policy Manager or Head of Supervision would be responsible for all policy tasks set out above. All “Supervisor” tasks set out in the process maps would be discharged by the Supervision and Policy Manager and/or the Chambers and Entity Supervisor. The Supervision and Authorisation Officer will be responsible for all tasks assigned as “Other” in the process maps and will also be responsible for ensuring that all “Admin” tasks are discharged, either through the part time Administrative Assistant or by discharging the tasks themselves. The QASA Officer or members of other Departments would be able to assist with administrative or “Other” tasks as required.
21. The following table summarises the key responsibilities for each role:

Role	Responsibilities
Head of Supervision	<ul style="list-style-type: none"> <li>• Oversight of the operation of the supervision strategy</li> <li>• Oversight of the entity authorisation process</li> <li>• Management of the Supervision and Policy Manager</li> </ul> <p><u>Operational supervision</u></p> <ul style="list-style-type: none"> <li>• Involvement in high profile or sensitive supervision activity</li> <li>• In those cases, undertaking the activities as listed under the entry for the Supervision and Policy Manager</li> <li>• Involvement in high profile or complex entity authorisation applications</li> </ul>
Supervision and Policy Manager	<ul style="list-style-type: none"> <li>• Management of Supervisor and Supervision Officer</li> <li>• Overall responsibility for operational supervision</li> <li>• Lead on supervision policy</li> </ul>

	<p><u>Operational supervision</u></p> <ul style="list-style-type: none"> <li>• Assessing evidence received and determining likelihood of risks materialising</li> <li>• Deciding when additional information is required and obtaining the information</li> <li>• Undertaking visits</li> <li>• Deciding an appropriate response to increased likelihood scores and following up on this with chambers/entities (including agreeing action plans)</li> <li>• Identifying non-compliance, deciding an appropriate response and following up on this with chambers/entities (including agreeing action plans)</li> <li>• Working with individual barristers to address non-compliance, including agreeing action plans and assessing the adequacy of action taken.</li> </ul>
Chambers and Entity Supervisor	<ul style="list-style-type: none"> <li>• Assessing evidence received and determining likelihood of risks materialising</li> <li>• Considering applications for entity authorisation</li> <li>• Deciding when additional information is required and obtaining the information</li> <li>• Undertaking visits</li> <li>• Deciding an appropriate response to increased likelihood scores and following up on this with chambers/entities (including agreeing action plans)</li> <li>• Identifying non-compliance, deciding an appropriate response and following up on this with chambers/entities (including agreeing action plans)</li> <li>• Working with individual barristers to address non-compliance, including agreeing action plans and assessing the adequacy of action taken.</li> </ul>
Supervision and Authorisation Officer	<ul style="list-style-type: none"> <li>• Planning and managing projects (impact assessments, supervision questionnaires, thematic reviews)</li> <li>• Involvement in the administration of authorisation of entities.</li> <li>• Preparing questionnaires and setting up spreadsheets</li> <li>• Analysing evidence and producing reports (on supervision returns, thematic reviews and at regular intervals on whole market)</li> <li>• Assisting with communication with profession</li> </ul>

	<ul style="list-style-type: none"><li>• Committee Secretary for Supervision Committee</li><li>• Overseeing and assisting with discharge of all admin functions</li></ul>
Part-time administrative assistant	<ul style="list-style-type: none"><li>• Discharging all administrative functions.</li></ul>

**Next steps**

22. This note sets out the resource planning for the supervision of chambers and new entities in the next financial year. Revisions to those resources can be made in the light of evidence and experience from operating a supervision process.

23. Authorisation resource planning will form part of the implementation project for the authorisation regime. The structure (and working model) of the Supervision Department has been designed to provide the flexibility (supported by the contingency planning underway) to meet the initial demands of authorisation (which are not anticipated to be high volume). However, the resource planning to be undertaken will enable this to be tested and revised, where necessary, prior to implementation.

**Supervision Department**

**4 March 2014**

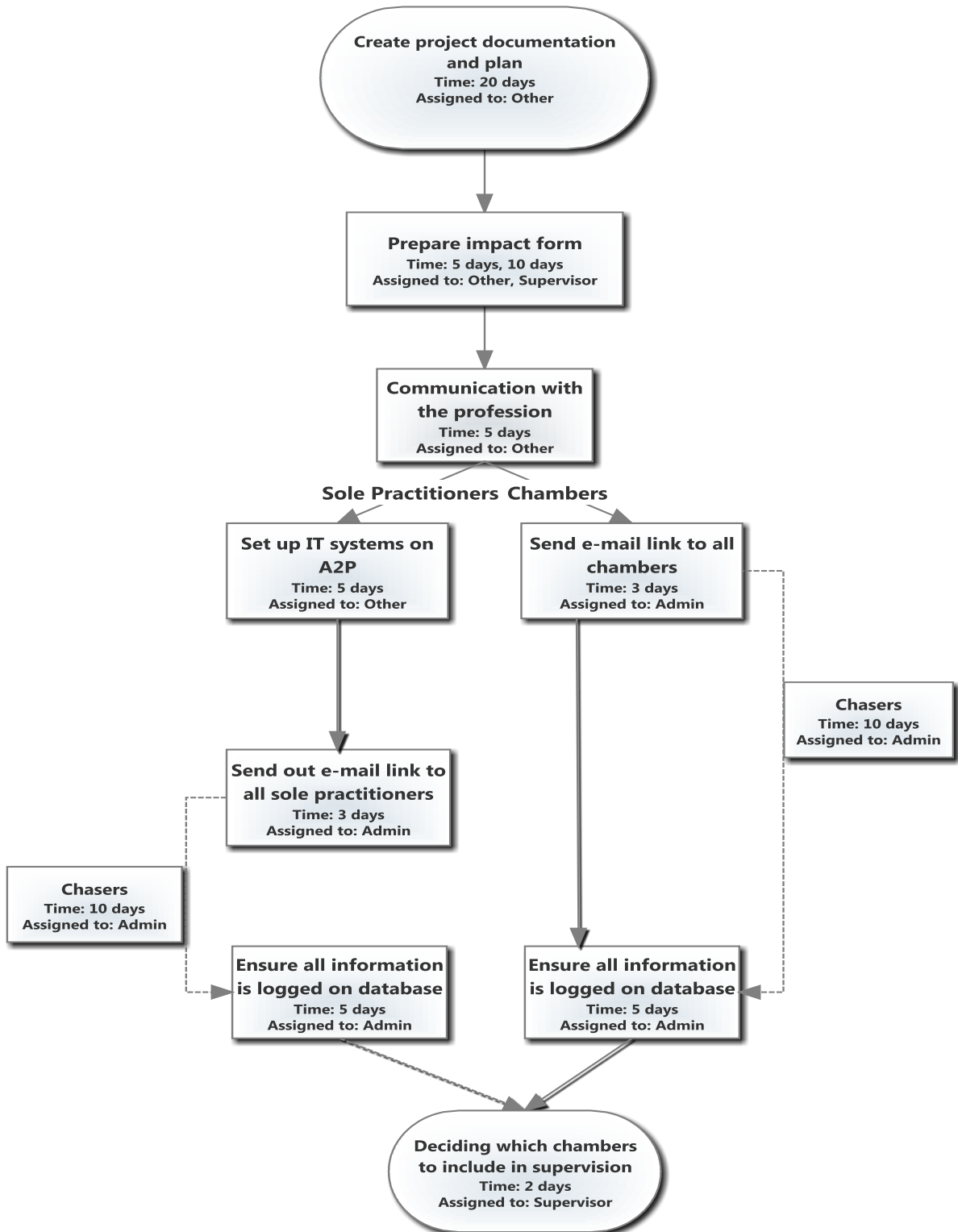
## Annex E

Supervision process maps



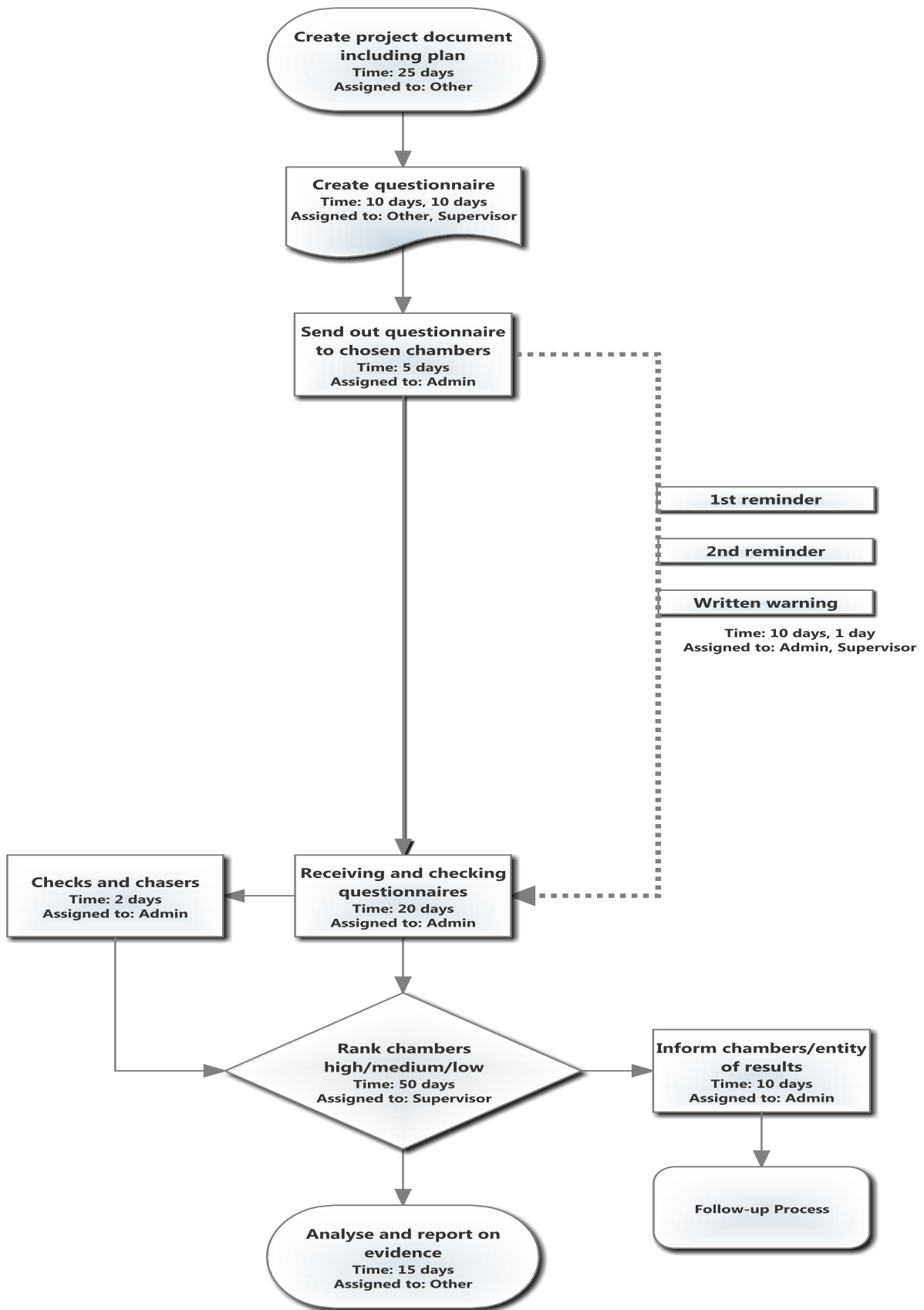
# Assessing Impact

Frequency: Once



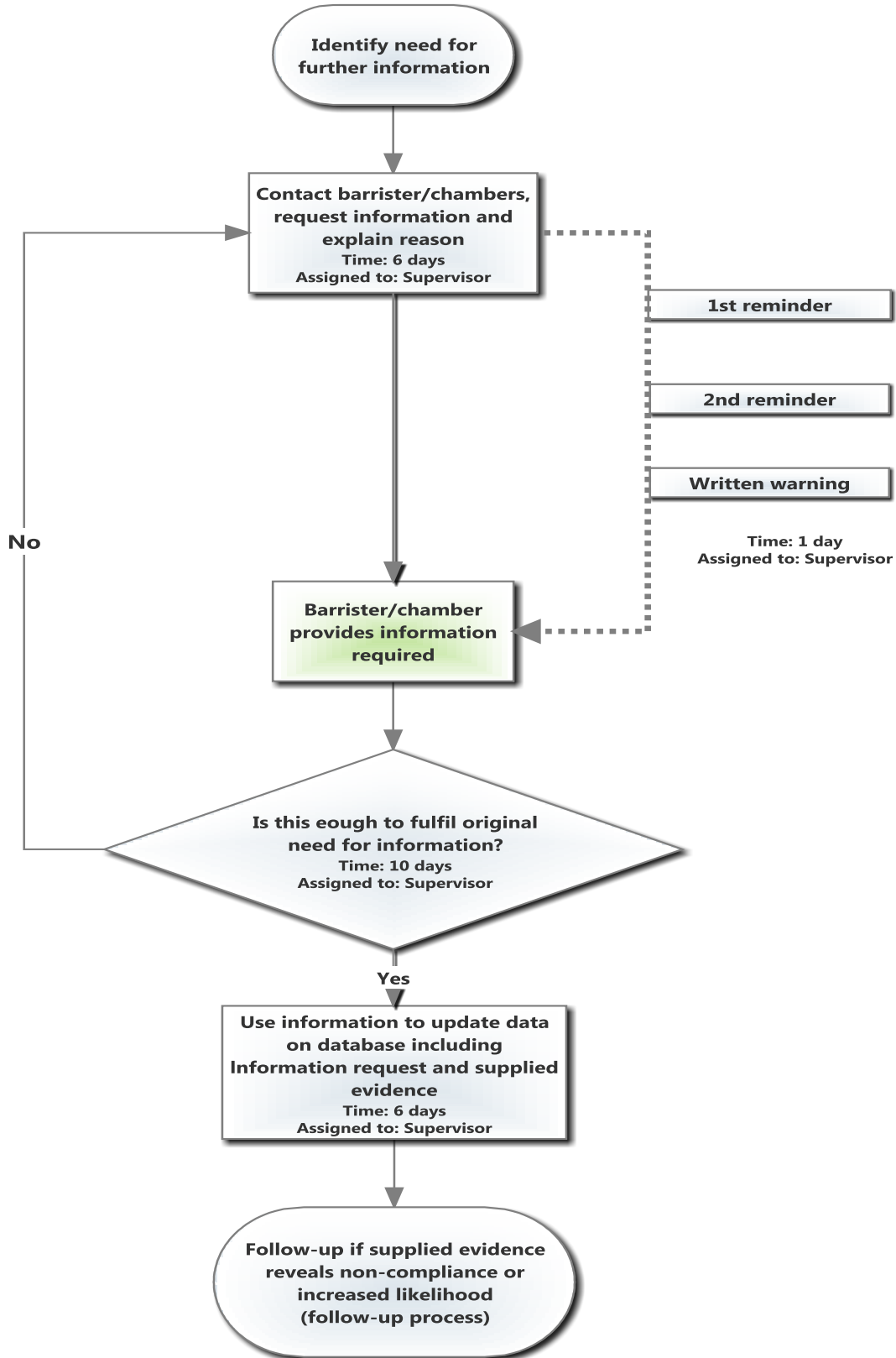
# Initial Supervision Questionnaire

Frequency: Once



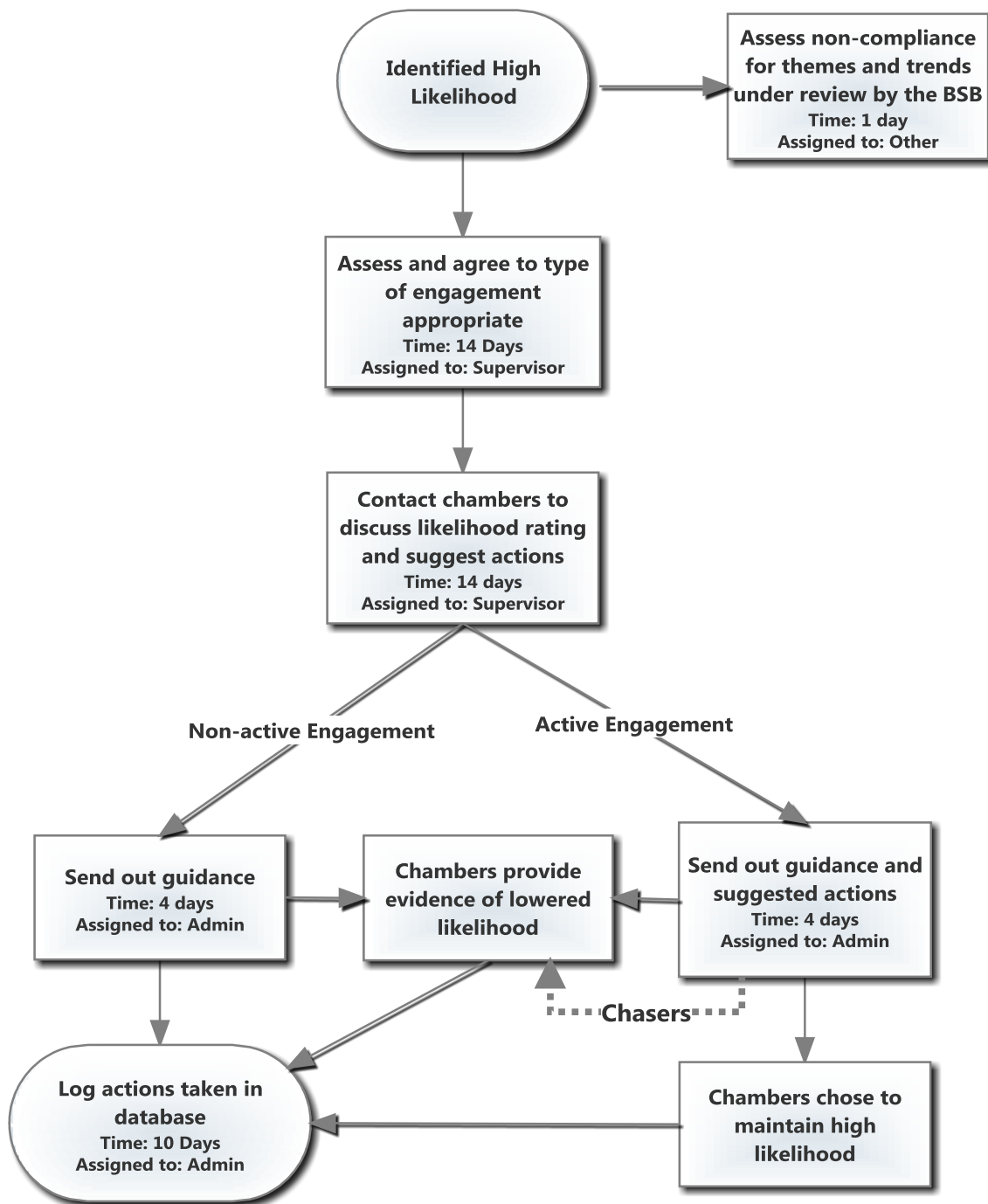
## Requesting Further Information

Frequency: Ongoing



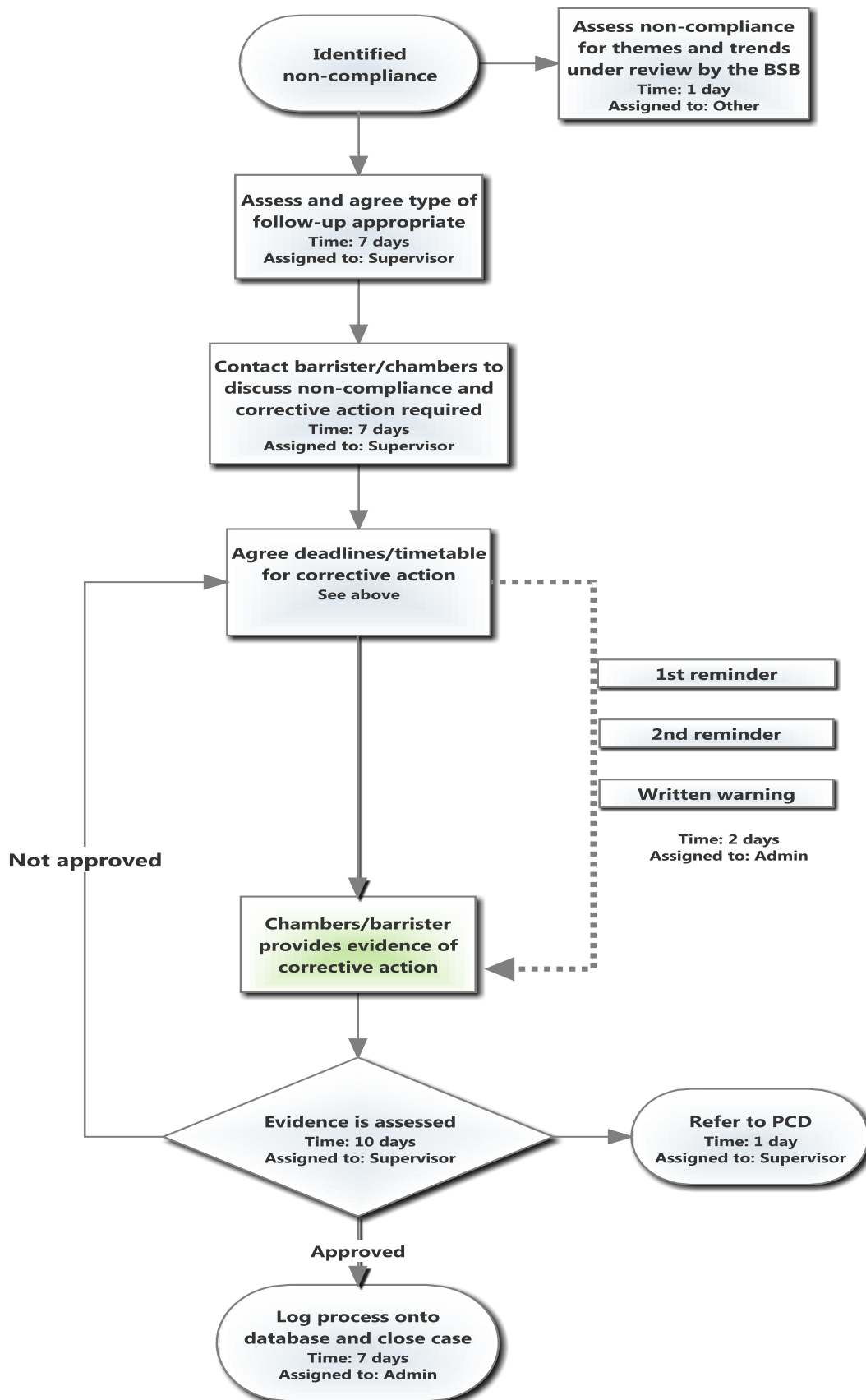
## Follow-up High Likelihood

Frequency: Ongoing



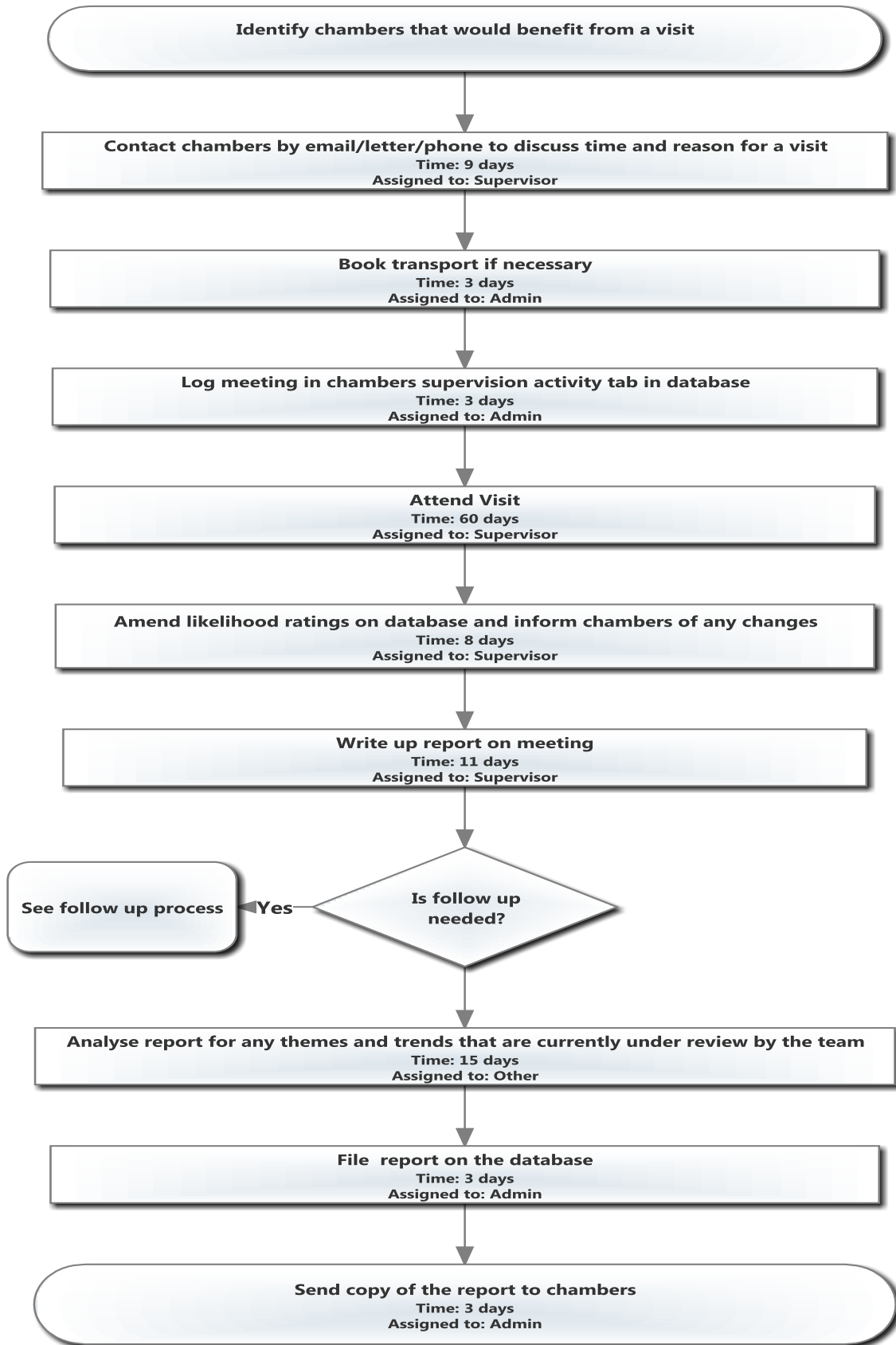
## Follow-Up Non Compliance

Frequency: Ongoing



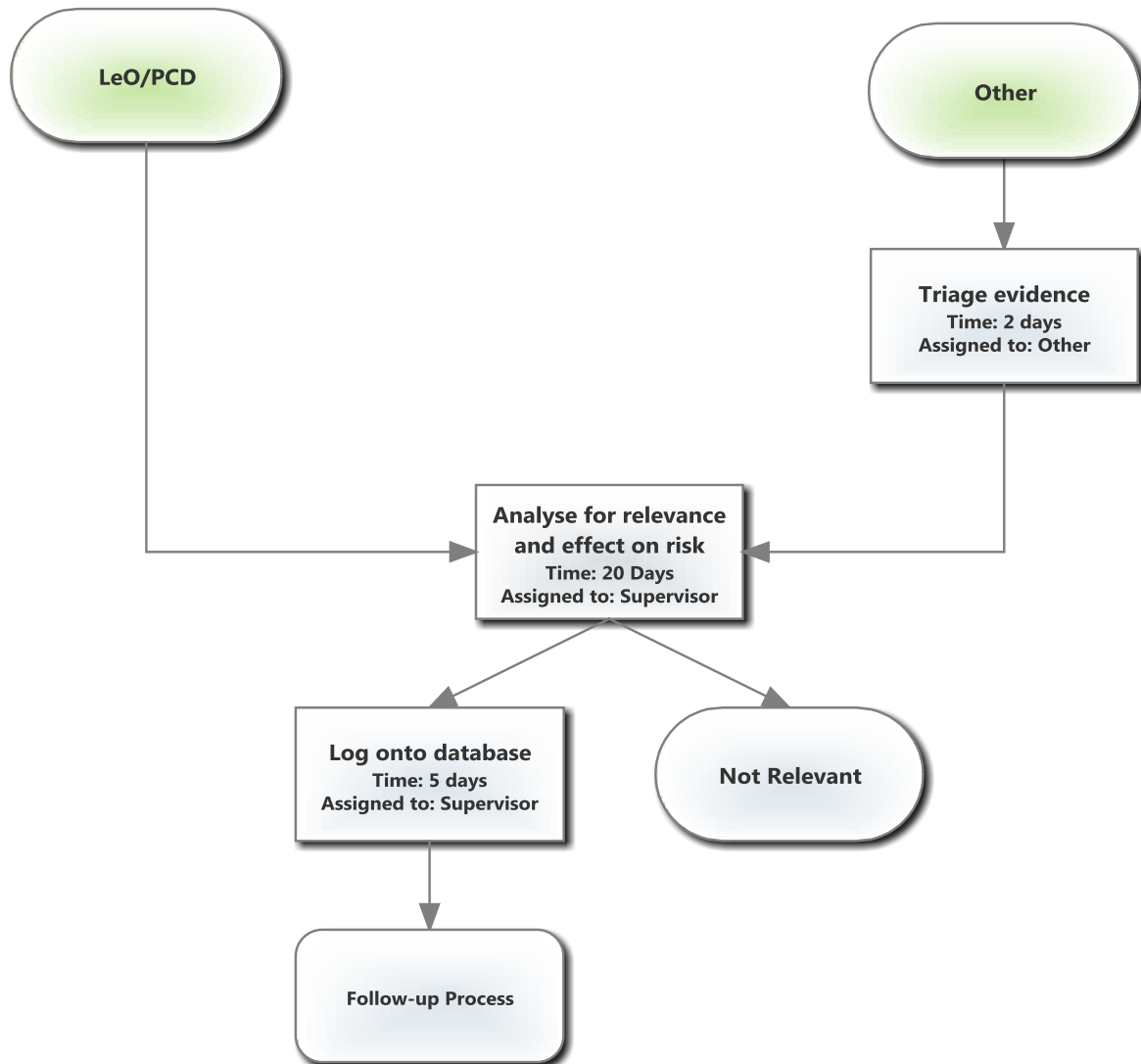
## Visiting Chambers

Frequency: Ongoing



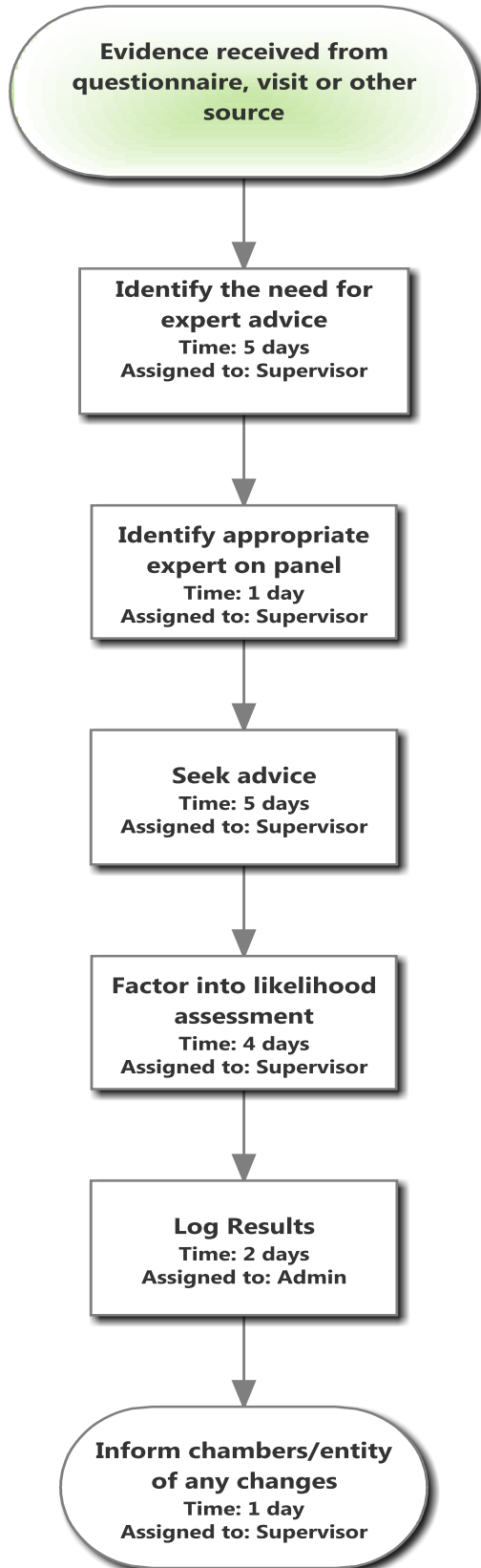
# Received Evidence Handling

Frequency: Ongoing



# Seeking Advice from Expert Panel

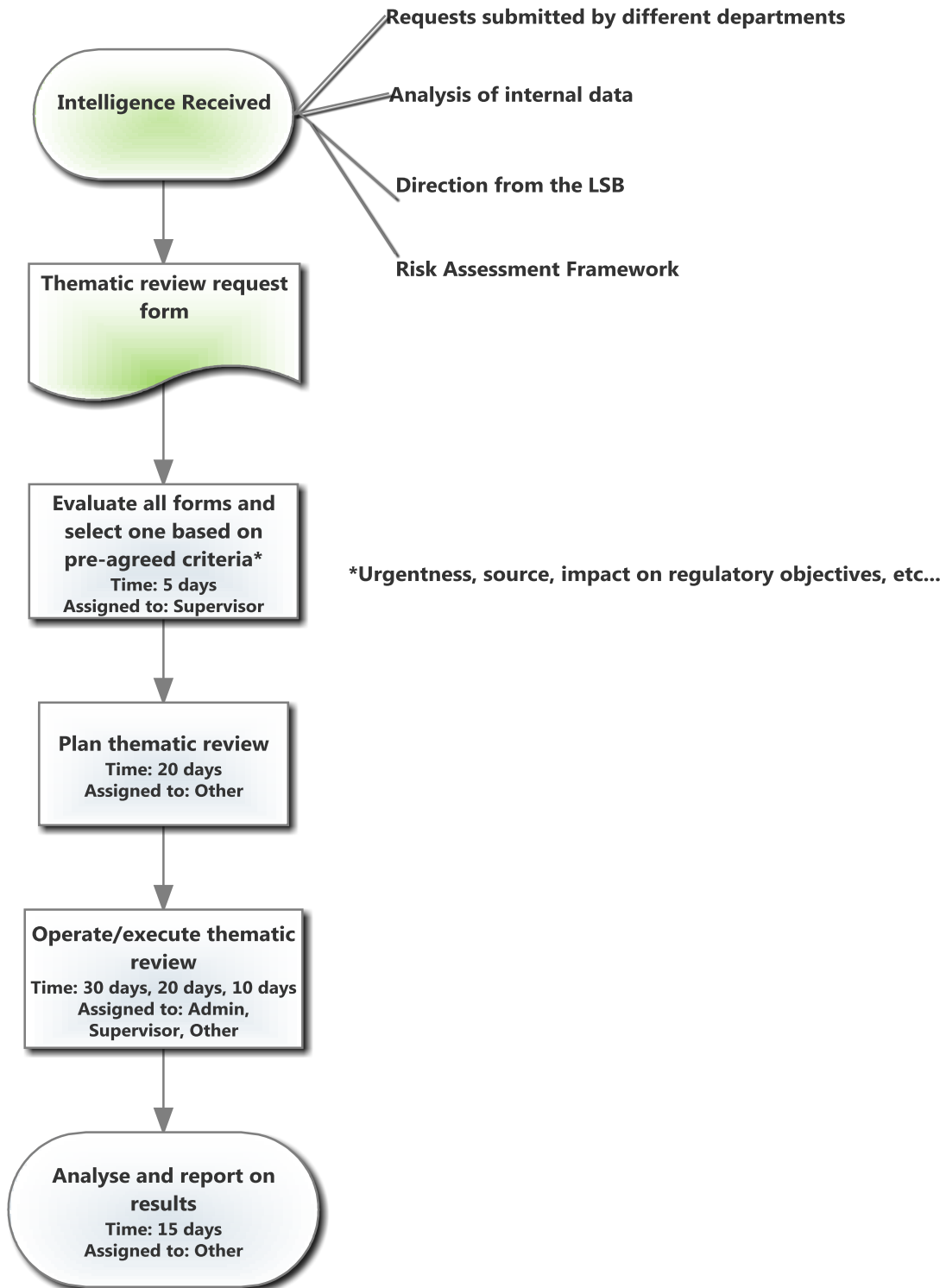
Frequency: Ongoing





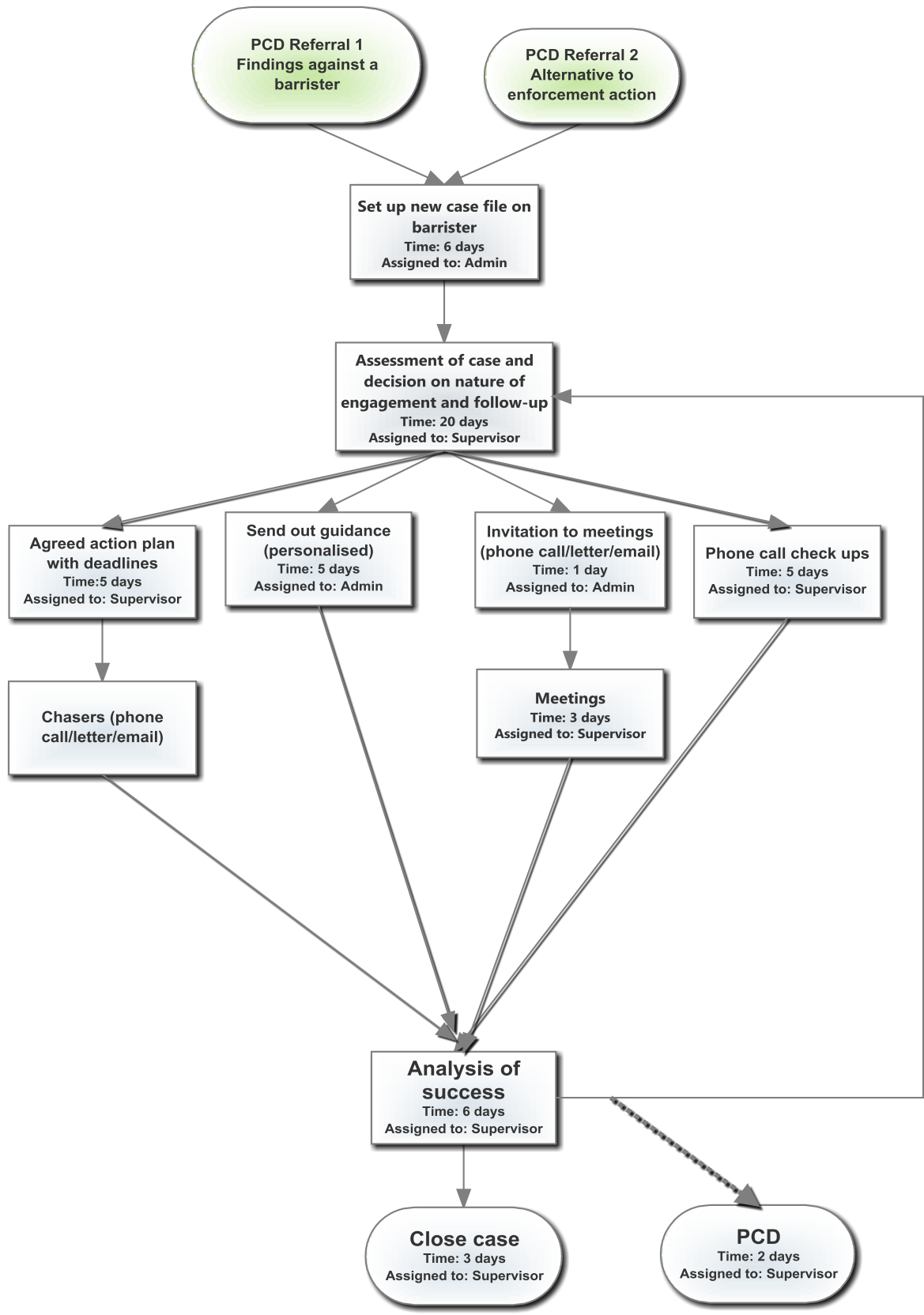
# Thematic Reviews

Frequency: Once in 2014



### Supervision of Individuals

Frequency: Ongoing



### **Authorisation- Enforcement- Supervision: Information Sharing**

This document establishes how and when information regarding entity regulation is shared between the Professional Conduct Department, the Supervision Team and the Authorisation Team

**The information** shared is designed to:

1. Identify problem areas in advance
2. Ensure that there is an up-to-date list of authorised entities and their risk levels which different parts of the BSB are aware of.

**The key functions** of the departments involved are:

- **Professional Conduct Department** (also known as PCD or Enforcement): Carries out assessments of complaints against barristers, judges them for merit and decides whether to proceed to an investigation and ultimately to a disciplinary tribunal.
- **Supervision team:** Carries out desk based supervision, thematic reviews and supervision visits to chambers to manage compliance against the BSB Handbook. These visits are risk-based, through intelligence from within the BSB or from other parties or from their scores against the impact audit. Visits aim to address problems before they are severe enough to merit action by PCD and to resolve them at this level.
- **Authorisation team:** Have responsibility for authorising entities and handling issues of entity regulation. This team is not yet in place.

**Please note that:** The staff and information systems in the authorisation and supervision teams are the same as they both sit within the Supervision Department. Information will be managed by these staff through the CORE database and the BSB's document management system. There will be a separate area within the document management system where intelligence on entities will be stored (this will include the information from PCD.) Information will be searchable by entity name within the CORE database.

**The overarching objective** for sharing information is to cooperate to ensure we fulfil the BSB's obligations as a regulator. With this in mind, information sharing shall be done:

- Usefully
- Clearly
- In a timely fashion
- According to this document unless otherwise stated.

The below table describes the methods the three departments will use to interact and the types of information they will share.

Annex E

	<b>Authorisation receiving internal information</b>	<b>Enforcement receiving internal information</b>	<b>Supervision receiving internal information</b>
<b>Authorisation sharing internal information</b>		<p><i>Information shared:</i> details of new entities (e.g.: name, location, area of practice, regulatory contact.)</p> <p><i>Method:</i> Authorisation will regularly update core database and document management system with list of authorised entities. They will email enforcement with regular lists of new entities.</p>	<p><i>Information shared:</i> details of new entities (e.g.: name, location, area of practice, regulatory contact.)</p> <p><i>Method:</i> Regularly update core database and document management system with list of authorised entities. Enables supervision to plan visits to the entities which pose the biggest risk.</p>
<b>Enforcement sharing internal information</b>	<p><i>Information shared:</i> Sole practitioners/chambers who are (or may be) subject to enforcement action who are deemed too risky to be authorised as entities.</p> <p><i>Method:</i> Form has been made to refer information from PCD to supervision formally (see appendix 1). Information sharing will be per the policy (see appendix 2)</p>		<p><i>Information shared:</i> Sole practitioners/chambers who present a risk that can be managed by supervision. (May not be appropriate to become entities whilst actions are still in progress; this decision is for Authorisation.)</p> <p><i>Method:</i> Form has been made to refer information from PCD to supervision/authorisation formally (see appendix 1). Information sharing will be per the policy (see appendix 2)</p>
<b>Supervision sharing internal information</b>	<p><i>Information shared:</i> Which sole practitioners/chambers are undergoing supervision, what the findings are and how well the follow-up has taken place. This evidence will allow the supervision team to make recommendations about whether the entity should be allowed to exist to authorisation.</p> <p><i>Method:</i> Authorisation and Supervision have the same individuals, systems and processes so this information will be known by all parties immediately. Pertinent information will be added to the core database and the data management system regularly.</p>	<p><i>Information shared:</i> Sole practitioners/chambers who have either not followed-up on their recommendations from supervision or where there is professional misconduct &amp; therefore it must be referred to enforcement to deal with.</p> <p><i>Method:</i> Information sharing will be using the policy and formal PCD referral form (currently unwritten.)</p>	

**APPENDIX 1: Referrals from PCD to Supervision team**

**In the event that the supervision team have to refer the issue back to PCD, they will enter details in the below:**

<b>Your Details</b>			
Person Completing form:		Date of report:	Click here to enter a date.
<b>Referral Back to Enforcement</b>			
<b>Your Details</b>			
PCD Reference Number:		Date report written:	Click here to enter a date.
Your name:			
<b>Informant</b>			
Name & Address of Informant:		Name and address of Barrister/ Chambers:	
How was the information received?	Choose an item.	Date information received to BSB:	Click here to enter a date.
<p>Please provide an overview of the concerns you are referring to the supervision team below. This should include but is not limited to:</p> <ul style="list-style-type: none"> <li>- Salient details of the case (names, dates, information &amp; sources) and key areas of concern.</li> <li>- Summarise PCD involvement so far (have there been representations by PCC?)</li> <li>- Provide supporting information; PDFs, Emails, screenshots etc. Please attach these to the referral as an appendix if possible:</li> </ul>			
<p>List below the actions that were taken whilst the case was with supervision. Ensure you include details of any correspondence and any actions taken.</p>			
<p>Outline the reasons the case is being referred back below. (E.g.: the referral was inappropriate or there have been significant changes that require further input from PCD.)</p>			

**Referring information between the Professional Conduct Department and the Supervision Team: FAQs**

- **What is the purpose of this form?**

The form serves as a formal record of cases referred from the PCD to the Supervision Team. The purpose of the form is twofold:

- 1) It ensures we have a robust audit trail of referrals and how they were actioned for the future. This evidence could be particularly important in the event of an investigation.
- 2) It guarantees that there is a clear system in place for the transfer of information. This increases efficiency and reduces the likelihood of referrals being lost.

- **When should I use this form?**

You should use this form to record the transfer of information from PCD to the supervision team.

- **How should I use this form?**

Complete the form, including any supplementary evidence, and email it to the supervision inbox. The supervision team will check that the referral is appropriate and may refer it back if not.

This form should not replace face-to-face discussions about whether cases are appropriate for referral, but all conversations about referrals to supervision **MUST** be backed up with a form to ensure we are keeping track of the issues coming through.

- **What if I require follow- up from Supervision on a case?**

We expect that PCD will follow-up on a case-by-case basis if this is deemed necessary.

**APPENDIX 2: Draft policy for referrals between PCD and supervision**

<b>Professional Conduct Department/Supervision Team</b>	
<b>Title:</b> Supervision referrals and exchange of information	
<b>Document type:</b> Policy and Guidance	<b>Date of issue:</b> X February 2014 <b>Reference:</b> PG20
<b>Status:</b> Internal & External	<b>Version:</b> 1 <b>Review date:</b> TBC
<b>Distribution:</b> Professional Conduct Department; Supervision Team; Professional Conduct Committee; Supervision Committee; Website	<b>Originators:</b> Sara Down, Head of Professional Conduct Chris Nichols. Supervision Manager

**Purpose**

- 1.1 The purpose of this document is to set out the arrangements between the Professional Conduct Department (PCD) and the Supervision Team (ST) regarding formal referrals and exchange of information. It is primarily designed for the use of relevant Bar Standards Board (BSB) staff and its Committees but will be made publically available so that the system is transparent.
- 1.2 This document supplements the BSB Handbook, the Supervision Strategy and the Enforcement Strategy and should be read in conjunction with them. It should also be read in conjunction with any relevant process documents applicable to the work of the ST and PCD e.g. 'PG09 – Initial assessment of complaints' and 'PG10 – Investigation of Complaints'.
- 1.3 It should be noted that the PCD staff exercise their decision making powers under express authority given by the Professional Conduct Committee (PCC). The PCC has formally authorised staff in the PCD to take decisions on referrals to the ST without reference to the full Committee (for full details of the Authorisations given by the PCC please see 'P09 - Authorisation of functions/powers under Part 5 of the BSB Handbook'.

**Summary of contents**

- 2.1 This document covers the following areas:

- i) Formal referrals from the ST to the PCD in relation to identified non-compliance with the terms of the Handbook;
- ii) Formal referrals by the PCD to the ST in relation to individual complaints that the PCD consider may warrant supervisory action as opposed to formal enforcement action;
- iii) Formal referrals from the PCD to the SD in relation to proved disciplinary cases that may warrant ongoing supervision of the individual barrister; and,
- iv) Communication of “intelligence” information to the ST by the PCD arising from complaints received.

### **Referrals to enforcement action by the Supervision Team**

- 3.1 The purpose of supervision activity is to encourage compliance with the terms of the Handbook as well as improve standards at the Bar. Where evidence of non-compliance is uncovered, the ST’s goal will be to try to ensure the issue is addressed without the need for enforcement action. The ST will normally only refer a matter to the PCD in the following circumstances:
- a) The chambers/entity has not satisfactorily addressed the non-compliance within a reasonable period;
  - b) The chambers/entity has a poor history of compliance and engagement with the Supervision Team such that it is unlikely that it would take the opportunity to address the issue via supervision; or,
  - c) The non-compliance is considered to be serious
- 3.2 The decision as to whether to refer a potential breach of the Handbook to the PCD is solely a matter for the ST. However, where a referral is made, it must be supported by clear, usually documentary, evidence that a potential breach has occurred. Where the potential breach is based solely on evidence of contact with ST staff, then the referral must be accompanied by written statements regarding the contact with the chambers and/or file notes of relevant telephone conversations.
- 3.3 Where the ST considers that a referral to the PCD is warranted, the referral should be made using the standard “Non-compliance Form” (NCF). This form includes the details of the barrister (normally the Head of Chambers), the chambers, a summary of the non-compliance and any documentary evidence, including statements from staff, which support the referral. The ST will notify the barrister/chambers that the matter has been referred to the PCD for consideration of enforcement action.
- 3.4 The decision as to whether to take enforcement action is a matter solely for the PCD/PCC based on its standard assessment processes. However, the PCD will inform the ST in writing of what action, if any, it has taken on the referral by completing the relevant section of the NCF.

### **Referrals to supervision by the Professional Conduct Department**



- 4.1 The PCD/PCC, in accordance with the BSB's regulatory framework, adopts a risk based and outcomes focussed approach to enforcement decisions. There are a range of options available under the Handbook to address non-compliance with its provisions. One of those options, under Regulation 11 of the Complaints Regulations<sup>1</sup>, is to refer matters of complaint to the ST for supervision in place of taking formal enforcement action.
- 4.2 In determining which complaints should be referred to the ST, the PCD will use its standard risk based Initial Assessment and Investigation processes<sup>2</sup>. These processes include, where appropriate, the assessment of factors that would indicate there may be wider concerns with an individual barrister's practice that would warrant supervisory intervention to mitigate the risk of further non-compliance with the Handbook. Such factors include, but are not limited to, issues such as multiple breaches of the practising requirements, previous proved breaches of the Handbook for similar matters, and/or evidence of health or other problems (such as bankruptcy) affecting the barrister's ability to manage their practice effectively.
- 4.3 Where the PCD assesses that a complaint about a relevant person is suitable for supervision, it will refer the case to the ST using the standard "Supervision Referral Form" (SRF). Prior to making the formal referral it may be necessary for the PCD to liaise informally with the ST to establish if a referral would be appropriate.
- 4.4 The relevant person, and if applicable, the complainant will be informed in writing by the PCD of the referral and reasons for it: the letter to the relevant person will also inform him/her that the option of taking enforcement action remains open to the BSB if supervisory intervention does not successfully address the concerns about non-compliance.
- 4.5 The Supervision Referral Form will include the name of the relevant person, the chambers/firm from which the person practices, summary details of the complaint, a copy/link to the PCD preliminary assessment form, summary details of any relevant previous proved breaches of the Handbook/Code of Conduct and the complaint documentation. While the referral will arise from a specific complaint, it will not be for the ST to investigate that complaint to establish if a breach of the Handbook has occurred or to make findings as to whether non-compliance has occurred. The ST's role is solely to establish if supervision is appropriate and, if so, what the nature of that supervision should be and how it should be implemented.
- 4.6 The ST is not obliged to act on a referral from the PCD. Therefore, on receipt of a Supervision Referral Form, the ST will consider all the circumstances and make a formal decision as to whether it considers that supervisory intervention would be effective. It is intended that the informal liaison outlined in paragraph 4.3 will avoid inappropriate referrals being made. If the referral is considered appropriate, the ST will discuss the issue with the barrister concerned to establish if he/she is prepared to co-operate with any supervisory activity proposed.

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<sup>1</sup> Part 5: Enforcement Regulations, Section A: The Complaints Regulations

<sup>2</sup> See 'PG09 - Initial Assessment of complaints' and 'PG10 – Investigation of complaints'

- 4.7 Where the ST considers that supervisory intervention is appropriate and the relevant person is prepared to co-operate, this should be recorded on the appropriate section of the SRF. It will then be for the ST to put in train whichever supervision activity it considers would be effective in the circumstances. This could consist of:
- Monitoring of the barrister's overall compliance with their regulatory requirements, but only for a limited period of time; and/or,
  - Explaining the concerns and giving the barrister a period of time in which to confirm that appropriate measures have been taken to prevent future non-compliance; and/or
  - Development of an agreed action plan to achieve compliance.
- 4.8 **Referral back to PCD for consideration of enforcement action:** a referral back to the PCD may be necessary in any of the following circumstances:
- a) the ST considers the matter is not appropriate for supervision;
  - b) the barrister disputes the evidence/facts of the complaint and/or is not prepared to co-operate with supervision;
  - c) the individual has not sufficiently addressed the non-compliance during the course of any supervision activity undertaken .
- 4.9 Where a matter needs to be referred back to the PCD, the referral must be made in writing by completing the relevant section of the SRF giving details of the reasons why the case is being referred back and attaching the relevant documentation.
- 4.10 If during the course of supervision activity new instances of non-compliance come to light, these should not be treated as forming part of the original complaint but should be referred to the PCD using the procedure outlined in 3.1 - 3.4.
- 4.11 **Time limit for referral back to PCD** - there is no formal time limit for referrals back to the PCD given that the relevant person will be fully aware that the original matter(s) of complaint remains "live" during the period of supervision and liable for referral back to enforcement. However, as a general rule, referrals back to PCD should not be made more than six months from the date of the original referral to ST unless there are exceptional circumstances.
- 4.12 **Action by the PCD following a referral back from the ST:** where a matter is referred back, the PCD will reconsider the complaint under its standard assessment procedures to determine whether enforcement action is necessary taking into account all the circumstances and any relevant information received since the original referral to supervision.

#### **Referral to supervision by the PCD following enforcement action**

- 5.1 The Supervision Strategy allows for the PCD to refer to the ST cases where there has been a disciplinary finding, either under the Determination by Consent (DBC) procedure or by a Disciplinary Tribunal, which warrant ongoing supervisory activity. The role of the ST in such circumstances is not to monitor or pursue compliance with the relevant orders arising from the disciplinary findings as these activities are reserved to the PCD.
- 5.2 The purpose of a referral from the PCD following a disciplinary finding is to try to reduce the likelihood of future issues with non-compliance. Therefore the circumstances in which a referral would be considered will be the same as those outlined in paragraph 4.2 and the same supervision activities set out in paragraph 4.7 will be available to the ST.
- 5.3 Referrals following disciplinary action will be made in writing by the PCD using the standard "Disciplinary Action Referral Form" which will include details of the disciplinary action taken, by whom the finding was made, the sanctions imposed, summary details of the breach(es) of the Handbook and reference to any previous disciplinary findings.
- 5.4 It will be for the ST to decide what supervisory activity it undertakes, if any, in relation to a referral following disciplinary action. There is no necessity for the ST to consult or liaise with the PCD in relation to such activity but the ST should record any activity it undertakes and inform the PCD of the action being taken. If new issues of non-compliance arise during the course of any supervisory activity, they will be dealt with in accordance with paragraphs 3.1-3.4.

### **Intelligence reports**

- 6.1 In order to ensure that the BSB is taking a holistic approach to its regulatory functions, it's important that relevant information is shared between departments/teams. While the procedures and activity described above relate to formal referrals between the PCD and ST, there will be circumstances where information available to the PCD may be relevant in supporting the work of the ST. This information is known as "intelligence". It does not necessarily need to relate to potential/proved breaches of the Handbook but is information that may indicate areas/issues of concern that the ST might want to take into account when assessing levels of risk and where to direct its supervisory activity.
- 6.2 It is not possible to define exactly what might amount to "intelligence" but in the main it will relate to issues revealed by complaints that the PCD does not take forward (dismissed complaints) but could arise from any type of information the PCD receives at any stage of the process. In order to avoid confusion and overlap in roles, the guiding principle should be that an intelligence report should not be submitted where an investigation or disciplinary proceedings are ongoing. However, a report would be appropriate at the conclusion of any consideration of enforcement action.

6.3 The following is a non-exhaustive list of the types of indicators that would warrant an “intelligence” report being submitted by the PCD to the ST:

- indications of systematic problems with the administration of a chambers/firm;
- Indications that a chambers/firm may have a widespread problem in relation to the conduct of its members in a specific area;
- Indications that a chambers/firm is condoning, or facilitating, breaches of the Handbook; and
- Information about discrimination or harassment, particularly in relation to pupils, within a chambers/firm.

6.4 Where the PCD considers that it has “intelligence” information an “Intelligence Report” should be completed and forwarded to the ST. It will be for the ST to decide how it treats the information. There is no requirement for the ST to report back to the PCD on action taken.