

BAR STANDARDS BOARD

REGULATING BARRISTERS

Regulatory Update – July 2015 edition

Help us to make Bar training more flexible – consultation ends 30 October

Future barristers may be able to achieve their career aspirations by a number of different, more flexible pathways if some of the approaches we are considering are implemented.

Our new consultation considers the strengths and weaknesses in the current academic (law degree or conversion course), vocational (Bar Professional Training Course (BPTC) and pupillage stages of Bar training.

We are looking at ways in which some of the inherent issues in the current system of training can be resolved. For example, is the current linear way in which a prospective barrister must first complete a law degree, then the BPTC and then pupillage the only way to train a competent barrister the public can have confidence in? Perhaps there is a better and more flexible way for barristers to prepare themselves for service to clients and the justice system.

Take a look at our consultation and tell us what you think about the approaches we have put forward – or let us know if you have ideas of your own.

You can read the press release <https://www.barstandardsboard.org.uk/media-centre/press-releases-and-news/regulator-consults-on-what-could-be-the-most-sweeping-reforms-to-bar-training-in-a-generation-keen-to-see-views-from-all/> and full consultation paper on our website:

https://www.barstandardsboard.org.uk/media/1676754/fbt_triple_consultation_9_july_2015.pdf. The deadline for responses is **30 October 2015** – and you can respond to all or any of the parts.

The proposals are part of our Future Bar Training programme

https://www.barstandardsboard.org.uk/media/1650565/future_bar_training_programme_update_february_2015_pdf_va499362.pdf, which sets out our vision for reforming legal education and training for the next generation of barristers.

Some of the many thought-provoking questions in our consultation include:

- How can the current academic qualifications and the BPTC better prepare an aspiring barrister for the cases which they will be dealing with on a day-to-day basis?
- How can we strike the right balance between adequate knowledge of the law and practical skills to manage client caseload and keep up with the changing legal landscape?
- Do the academic, vocational and pupillage stages need to be sequential or could they be better interwoven so that students develop knowledge and skills at the same time?
- How do we best ensure that the Bar attracts and retains a diverse array of quality candidates?

Help us to shape a better, more flexible way of Bar training and qualifying.

Questions? Email futurebartraining@barstandardsboard.org.uk.

We want your views on reforms to the disciplinary tribunal system

We are seeking views on proposals to reform the disciplinary tribunal system before 12 October. The Disciplinary Tribunal Regulations (found at Part 5B of our Handbook) set out the powers and functions of Disciplinary Tribunals whenever there is evidence that a barrister (or a BSB-authorized entity) has breached the BSB Handbook.

Our Professional Conduct Department has recently undertaken a review of the Disciplinary Tribunal Regulations, and produced a revised set of Regulations.

We have published a consultation paper https://www.barstandardsboard.org.uk/media/1675088/150706_-_dtr_review_-_consultation_-_consultation_paper_-_final.pdf, summarising and explaining the proposed revisions, along with the revised Regulations.

In addition, we are holding a series of workshops for anyone interested in feeding back their views on the proposed changes in an open forum. The workshops will be held at the BSB's Offices <https://www.barstandardsboard.org.uk/header-items/contact-us/find-us/> on:

- Monday 21 September at 5.30pm; and/or
- Thursday 1 October at 5.30pm.

To contribute to the consultation or to register your interest in attending one of the workshops, contact Siân Mayhew via SMayhew@BarStandardsBoard.org.uk. Responses can also be provided by phone with prior arrangement (please call 020 7611 1444). You can read more about the consultation in our press release <https://www.barstandardsboard.org.uk/media-centre/press-releases-and-news/bar-regulator-consults-on-reforms-to-the-disciplinary-tribunal-system/>.

We want your views: consultations on BSB powers

As the regulator, we need new statutory powers to step into barristers' failing chambers, companies and partnerships to protect the interests of clients where something has gone seriously wrong.

We launched a consultation paper https://www.barstandardsboard.org.uk/media/1665744/consultation_-_amendment_to_bar_standards_board_powers_-_may_2015_-_final.pdf on 11 May stating that in serious instances of: failure to comply with regulatory requirements, dishonesty, insolvency, or where otherwise necessary to protect the interests of clients, we should have statutory powers to take control of client files.

To make your views known, please respond to the consultation by 31 July.

BSB statement on the QASA Supreme Court judgment

On 24 June our Director General Dr Vanessa Davies released a statement saying that the Supreme Court judgment brings to an end the legal challenges surrounding QASA:

“We are pleased that the final ruling has confirmed QASA as lawful and proportionate. Clearly we need to look carefully at the detail in the judgment, but the objective of providing a high level of public protection through a precautionary scheme has long been the underlying principle behind QASA.

“The Supreme Court has recognised this. Given the length of time that has passed since the scheme was approved by the Legal Services Board, we need now to consider the scheme's implementation and the likely timescales involved. We will make further announcements about this in due course.”

Blog: Monthly message from our Chair Sir Andrew Burns KCMG

Education. Education. Education.

A famous – or should that be infamous? – Sound bite to sum up what one's priorities are going to be, when seeking to stress the vital importance of education. Well, as I want to talk about education and training at the Bar in my blog post this month, it seems as good an opening line as any!

In fact, the education and training regime for future barristers is something of a major policy priority at the moment for all of us here at the BSB. The volume of articles about our current Future Bar Training programme in recent issues of this Regulatory Update is no coincidence.

Our recently closed consultation about the “Professional Statement” was just the beginning in our structured approach to reviewing, and where necessary, reforming, the currently very prescriptive way in which barristers are trained and become eligible to practise. (Just in case you haven't been following our work on the “Professional Statement”, this is our way of defining what a newly authorised barrister should be able to do from day one, at the point of first being issued a full Practising Certificate).

We've reached a crucial stage in the process of thinking about what a future-focused, more flexible, system of qualification might look like. You can read our thinking in our latest consultation paper. It considers the strengths and weaknesses in the current academic, vocational and pupillage stages of training. It also explains our role as a regulator in the training arena and seeks views on a range of possible approaches designed to try and resolve some of the current issues in the system.

I urge you all to take a look at this and let us know what you think about some of the options which we outline. This subject is, after all, central to assuring the quality of the next generation of barristers. It's about attracting able candidates – no matter what their background – to the Bar. It's about making sure that the best characteristics are carried forward, in a profession that maintains the highest standing in the eyes of the public. Surely, that's worth a bit of reading over the summer?

CPD spot checks

We are in the process of carrying out spot checks of barristers' compliance with their 2014 CPD requirements and barristers should be aware that they may be asked to submit their 2014 CPD record card. Any barrister may be chosen although there will be a particular focus on barristers who completed their New Practitioner Programme in 2014.

If you have any queries about the 2014 CPD spot check please contact the CPD assessment team: CPDrecords@barstandardsboard.org.uk.

Publicising disciplinary outcomes

There are a range of disciplinary sanctions which can be imposed on a barrister found to have breached the core duties or rules within the BSB Handbook. These sanctions, which are imposed by an independent tribunal arranged by The Bar Tribunal Adjudications Service (BTAS) include fines, sanctions, suspensions and disbarments. Any disciplinary sanction imposed is published on both the BSB and BTAS websites following the hearing and members of the public can search for disciplinary findings against individual barrister's names. All findings will be removed from the website after two years, unless the finding of the Disciplinary Tribunal involves a suspension or disbarment. In these cases, the finding will be posted on the website indefinitely.

In order to ensure the protection of the public, we also issue public statements in all cases where a barrister has been found guilty of professional misconduct that resulted in the Tribunal ordering that the barrister be disbarred. From 1 September 2015, we will also be issuing public statements in cases where a Tribunal has imposed a period of suspension from practise, in addition, we will also be publishing information about disbarments and suspensions within the BSB pages in Counsel Magazine.

Medium Impact Supervision Returns: Deadline Approaching

This is a reminder that Supervision Returns are due from all Medium Impact by **Friday 17 July**.

The Supervision Return will be used to assess Medium Impact chambers as Low, Medium or High risk. Supervision Returns provide an opportunity for chambers to explain how effectively potential risks are being managed, to help us determine the likelihood of these risks actually materialising and to establish the level of supervision and support that chambers might need.

Please note that use of the term "chambers" includes sole practitioners.

If you have any queries about the Supervision Returns process, please contact the Supervision Team: supervision@barstandardsboard.org.uk.

Important Reminder – Public Access Training: 4 October 2015 Deadline. Three Months to Go!

Were you registered to undertake Public Access work prior to October 2013? If so, you must complete top-up training by 4 October 2015 or cease to undertake Public Access work. See the Public Access Rules C119 - C131 of the Code of Conduct in the BSB Handbook.

More information on the training providers (including their contact details) is available on our website <https://www.barstandardsboard.org.uk/regulatory-requirements/for-barristers/public-access/>.

BSB Handbook Explained – Dual Capacity Practice

Are you a barrister who practises in a dual capacity, eg as a self-employed barrister in chambers and an employed barrister in a law firm?

Rule S18 of the BSB Handbook states that if you practise in a dual capacity, you must obtain an amended practising certificate from the Records Department of the Bar Council.

You must also agree a protocol with each of your employers which enables you to avoid, or resolve, any conflict of interests or duties arising from your dual capacity practice.

Give us your feedback

If you have any thoughts about how we can improve the Regulatory Update or what content you would like to read, please email contactus@barstandardsboard.org.uk.

Have we got correct details of your primary practice address?

We would like to remind all barristers to ensure that you have informed us of your correct primary practice address in accordance with rS69 of our Handbook. If your practice address changes, please inform our Records Department within 28 days.

Please let us know (<mailto:records@barcouncil.org.uk>) about any changes to your contact and practising details so that we can work together to maintain accurate records as per the requirements set out within our Handbook (rC64.1).