



BAR
STANDARDS
BOARD

REGULATING BARRISTERS

Regulatory Update

Monthly update from the Bar Standards Board

April 2016

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Blog: Monthly message from our Chair Sir Andrew Burns KCMG

In this month's blog, Sir Andrew explains the relationship between our new Strategic Plan and risk-based regulation. Read his blog [on our website](#).

BSB receives approval to license Alternative Business Structures

Our new strategy for 2016-19: what it means for you

These are uncertain times for everyone involved in legal services.

We fully understand that many barristers are having to deal with competing challenges from a wide variety of sources. These include commercial pressures from a wide range of regulated – and unregulated – providers, dealing with the ongoing effects of cuts to legal aid, and preparing to adapt to proposed technological changes to the court system. We are facing similarly significant challenges, including an imminent government consultation on the future of legal services regulation and a study by the Competition and Markets Authority (CMA).

It is in the face of these circumstances, that we have recently published our [new three-year Strategic Plan](#). Given all of the above, the need for ensuring value for money has been paramount. The plan confirms that our direct operating costs will reduce by four per cent in 2016-17 and we have made a commitment to keep these costs at this reduced baseline for at least the duration of the plan.

By taking a risk-based approach to regulation, we can target our resources to the areas where we can make a difference.

With this in mind, Our Strategic Plan describes three strategic aims. [You can read more about these aims on our website](#). They are:

1. Regulating in the public interest;
2. Supporting those the BSB regulates to face the future; and
3. Being a strong and sustainable regulator.

[Read more on our website](#).

Spotlight on risk: commercial pressures

Our Risk Outlook was published earlier this month. This sets out our three priority areas of risk in the legal services market and provides some useful context to accompany them. In the first of a series of three features, we summarise the priority area of commercial pressures. More detailed analysis and evidence is provided in the *Risk Outlook*, which can be found [on our website](#). [Read more on our website](#).

Our application to become a licensing authority for alternative business structures (ABS) has been approved by the Legal Services Board (LSB). [Read more on our website](#).

Amendments to Academic Stage Requirements

While we are formulating our long term plans for education and training as part of our Future Bar Training Programme, we have been looking to see what interim changes would be compatible with our overall aims of regulating in a way which is risk-based and outcomes-focused and do not require amendments to the Bar Training Rules.

As a result, we have decided to make amendments to our Academic Stage requirements. [Read more on our website](#).

About risk-based regulation

You have probably noticed how we often refer to our method of regulating the Bar as being “risk-based”. This is something that is very much at the heart of our [new Strategic Plan](#). We thought it might be helpful to provide an explanation here about what we mean by risk-based regulation.

In short, risk-based regulation means that we are constantly monitoring the market for barristers’ and advocacy services. We identify all of the potential risks that could prevent our [Regulatory Objectives](#) from being met. When we have done this, we focus our attention as the regulator on the risks that we think pose the biggest threats to the public interest. We then take action to try and prevent those risks from occurring, or to reduce their impact.

Inevitably, focusing on risks might make us seem very negative or give the impression that we anticipate the worst case scenario will happen. This is not true. We know that much of what the Bar does works very well. But we do not generally need to focus our regulatory attention on the things that are going well!

To a large extent, trying to anticipate what could go wrong – and taking action to prevent that happening – is what being a regulator is about. You can read more about our risk-based approach to regulation and find out about the risk areas that we are going to be focusing most of our attention on during the early years of our strategy, [on our website](#). The information on our website also explains our statutory obligations to regulate in a risk-based way.

Look out for the upcoming Licensed Access Survey

We will soon be launching a survey about licensed access work. We would like feedback on how the licensed access scheme is working for barristers and licenced access clients. If you are a barrister who has undertaken direct access work for licence-holding clients, this will be relevant to you. The information from the survey will form a valuable part of our Public and Licensed Access Review.

Cross Cultural Communication

In January we held a symposium entitled ‘[Does Cross-Cultural Communication Matter at the Bar?](#)’ BSB Board members and staff were joined by voluntary sector organisations, consumer groups and members of the Bar to explore the issue of cross-cultural communication (CCC) – appropriate and effective communication between individuals from different cultures and backgrounds. The aim of the symposium was to build our understanding of CCC, how it impacts upon our regulatory objectives, and ways in which we can build CCC amongst barristers through our regulatory tools. [Read more on our website](#).

Reminder about the need to complete Authorisation to Practise

We would like to remind barristers who have not yet completed the ATP process that applications received after 31 March have a 20 per cent surcharge added to the total fee.

Barristers who fail to complete the renewal process by 30 April will

Update on the new Continuing Professional Development (CPD) scheme

From January 2017, we are proposing that barristers on the Established Practitioner Programme (EPP) of CPD:

- will be free to plan their own CPD activities;
- will have greater flexibility in the types of CPD activities they undertake;
- will not be subject to any compulsory activities including accredited activities;
- will not be subject to a minimum number of hours; and
- will no longer need to apply for an extension of time or a waiver from their CPD requirements.

CPD activities completed in previous years will be taken into account when assessing a barrister's compliance with the CPD requirements. Our consultation has revealed general support for these proposals in principle but a clear desire for more detailed guidance. [Read more on our website.](#)

Forensic Accounting: Launch of a new, online course for Pupils and New Practitioners

During pupillage, all pupils must attend certain compulsory courses including the Forensic Accounting Course. The Pupillage Handbook 2015 states that "the Forensic Accounting Course must be undertaken *either* in pupillage *or* within the first three years of practice" (New Practitioners).

The old two day face-to-face Forensic Accounting course has been replaced with [an online, modular course](#) designed to be undertaken at the user's pace. [Read more on our website.](#)

Regulatory Requirements

no longer appear on our Barristers' Register and will not be authorised to practise. In addition, from 1 May, we will take such action as is considered appropriate against any barrister believed to be practising without a certificate. [Visit our website](#) to read useful information to help you with ATP. [Read more on our website.](#)

We want your views on our draft Professional Statement threshold standard and competences

We have launched a consultation to gather your views on the threshold standard and competences developed to support the published Professional Statement. These are a vital resource for all qualified barristers and those designing training. We want your views on whether these accurately reflect the skills and characteristics a barrister requires on "day one" of practise. For further information please, [see our website.](#)

BSB Handbook Explained – Using the title “barrister”



Are you an unregistered barrister and unsure what you can call yourself?

Rule rS8 provides that you must not practise as a barrister unless you have a practising certificate, and rule rS9 defines practising as a barrister as including holding yourself out as a barrister while providing legal services. This means that unregistered barristers cannot use the title barrister, or otherwise convey the impression that they are practising as barristers, in connection with providing any legal services. [Read more on our website.](#)



Have we got correct details of your primary practice address?

Please ensure that you have informed us of your correct primary practice address in accordance with rS69 of our Handbook. If your practice address changes, you must inform our Records Department within 28 days.

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.

Please let us know (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).



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