

BAR STANDARDS BOARD

REGULATING BARRISTERS

Regulatory Update February 2015

About our Regulatory Update

Welcome to the first issue of the Bar Standard Board's Regulatory Update. This is our new look monthly update for the Bar – we hope you find it informative. We have a regulatory responsibility to make you aware of developments in regulation that may affect you. This email is one way in which we do that. As it is information we consider that you need to know, we cannot unsubscribe you from our mailing list for future issues. If you have a view on the new look and feel or if you have any feedback about aspects of our work that you would like to know more about, please let us know your thoughts via contactus@barstandardsboard.org.uk.

Expanding opportunities at the Bar

In a changing legal services market, part of our role as the Bar's regulator is to help you to adapt to consumers' changing needs and provide you with opportunities in a market in flux. To ensure the Bar is able to continue meeting the interests of clients, we are transforming the way in which the profession operates by providing barristers with new opportunities for conducting their business in a competitive climate. This includes:

- Introducing a new training regime for Public Access barristers (<https://www.barstandardsboard.org.uk/regulatory-requirements/for-barristers/public-access/>) in October 2013 to meet client needs. Clients are now able to access a broader range of Public Access barristers and can be more confident of the standard of service they will receive. In addition, barristers of fewer than three years' call are, for the first time, able to conduct Public Access work if they complete the new Public Access training. There are currently 6,365 barristers registered to undertake Public Access work.
- Enabling self-employed barristers to apply for an extension to their practising certificate to conduct litigation (<https://www.barstandardsboard.org.uk/regulatory-requirements/for-barristers/authorisation-to-conduct-litigation/>) as of January 2014. So far we have authorised 94 self-employed barristers and 11 dual capacity barristers to conduct litigation.
- Becoming an entity regulator (<https://www.barstandardsboard.org.uk/regulatory-requirements/for-prospective-entities/how-to-apply/>) – on 5 January 2015 we began to accept applications from those wishing to set up BSB-regulated businesses ("entities"), owned and managed by lawyers, and which provide reserved legal activities such as appearing in court as an advocate. To date we have heard from over 50 prospective BSB-regulated entities. We are due to begin authorising entities in April.

Interested in setting up a BSB-regulated entity? Please get in touch via 0207 092 6801 or entityregulation@barstandardsboard.org.uk. For more information, visit our

website: <https://www.barstandardsboard.org.uk/regulatory-requirements/for-prospective-entities/how-to-apply/>.

As a regulator we are committed to helping the Bar make the most of the opportunities available so that you can provide the best possible service to your clients. If you would like to find out more about these changes, contact us via contactus@barstandardsboard.org.uk.

QASA Update

In October 2014 we said that we would update our position on the Quality Assurance Scheme for Advocates in the New Year – taking into account the on-going legal proceedings. At our Board meeting on 29 January 2015 it was noted that the Supreme Court has not yet reached a decision on whether to allow the claimants in the case to appeal against the judgment of the Court of Appeal, which found the Scheme was lawful. As it is uncertain when that decision will be available, the Board decided we should in the meantime explore other ways in which we can properly protect the public from poor standards of advocacy. We will provide further updates once we are in a position to do so.

The “Authorisation to Practise” process for 2015/16 is now open

You now have until 31 March 2015 to renew your Practising Certificates.

The new method for calculating your Practising Certificate Fee (PCF) will apply, providing a fairer way of calculating fees.

From this year, the PCF will be calculated based on your earnings, not the number of years since you were called to the Bar.

The new system will operate within the existing ‘Barrister Connect’ portal and is designed to be as simple as possible to use.

There are six rates of PCF related to income bands ranging from £100 for those whose gross earnings are less than £30,000 to £1,500 for those with gross earnings over £240,001. The same bands will apply to both the employed and the self-employed Bar to ensure that no-one is disadvantaged because of the way in which they practise.

Earnings during the 2013/14 financial year will be used as the basis for determining the PCF for the 2015/16 year. You will be required to declare your gross earnings.

More information about the new method of calculation and why it is changing is available on our website: <https://www.barstandardsboard.org.uk/regulatory-requirements/for-barristers/practising-certificate/>.

The new arrangements were approved by the Legal Services Board (LSB) in October 2013 and they also approved this year’s fees in January 2015.

The “Authorisation to Practise” process is also the way in which you can best provide us with your diversity monitoring data. Although answering the questions is voluntary, this information is very important in helping us all understand the make-up of the Bar and it helps us meet our regulatory duty to encourage an independent, strong, diverse and effective profession.

CPD Record Cards

We have introduced a new CPD Accreditation Scheme for calendar year 2015, which was formally implemented on 1 January. **Accredited** CPD Providers who have subscribed to the new scheme are now approved by us to self-accredit their CPD courses and events, (subject to our CPD Accreditation Policy and Guidance).

You must note the CPD Provider's unique ID number (a three or four digit number) on your CPD record card. We have designed new CPD record cards for calendar year 2015. Please use the new form when recording your CPD hours during 2015: You can download the 2015 record cards from our website:

https://www.barstandardsboard.org.uk/media/1637638/npp_record_card_2015.doc

https://www.barstandardsboard.org.uk/media/1637634/epp_record_card_2015.doc

If you have any queries or concerns relating to the CPD Accreditation Scheme 2015 or accredited CPD Providers, please contact our CPD Accreditation department on 020 7611 1444 or by email CPDAccreditation@BarStandardsBoard.org.uk. However, please direct queries relating to the accreditation status of an individual course/event to the accredited CPD Provider in the first instance.

Message from our new Chair Sir Andrew Burns KCMG



It is a great privilege and honour to have been invited to succeed Baroness Deech as Chair of the Bar Standards Board. Ruth and I have worked closely together in the past and I know what a challenge it will be to follow in the footsteps of such a humane, experienced and distinguished public figure. Fortunately I inherit an excellent team at the BSB which has gained greatly in maturity and proficiency under Vanessa Davies' direction.

As you will be aware, I have been recruited precisely because I have had no previous connection with the law. I come to this position from a long career as a British diplomat working in India and Hong Kong, in Canada and the United States, in Eastern Europe and in the Middle East. In recent years I have chaired one of the leading universities in the UK, Royal Holloway in the University of London and am a Governor of the Guildhall School of Music and Drama. I have been a BBC Governor. And for the last five years I have been engaged in representing British interests in tackling post-Holocaust Issues, most notably as the current Chair of the International Holocaust Remembrance Alliance which develops intergovernmental cooperation on Holocaust education, remembrance and research.

Needless to say such an international diplomatic career has brought me into contact with many members of the British legal profession at home and abroad. But my more recent responsibilities have involved me in many different fields of regulation: broadcasting, finance, charities and higher education.

For the moment I am very much in a meeting and listening phase and want to get to know and talk to members of the Bar at all levels around the country. As we begin our strategic planning for 2016-19, I am very much looking forward to leading the BSB through the next phase of our journey to becoming a modern and efficient regulator, protecting the public interest while retaining the trust and confidence of the profession itself.

I attended my first Board meeting as Chair on 29 January. You can read some of our post Board meeting announcements in this Update. I hope you will find our account of how we are expanding opportunities at the Bar of particular interest.

Feature: Entity regulation at a glance

Entity regulation – key facts and figures

We are now able to regulate organisations owned and managed by barristers and other lawyers.

Your application

Whilst we are not in a position to begin making authorisation decisions until April 2015, please make sure you send your application early, as we are dealing with them on a **first come, first served basis**.

After registering as a prospective entity you will receive an email containing a link to the entity authorisation application portal, with your unique identification number and password.

You can find more information on the <https://www.barstandardsboard.org.uk/regulatory-requirements/for-prospective-entities/frequently-asked-questions/> section of our website, including details of our authorisation process, timelines, costs and fees.

Our contact details

0207 092 6801

entityregulation@barstandardsboard.org.uk.

Key statistics

No. of officially completed applications so far: 8

What type of entities have registered an interest in applying?

Entity type*	No. of applicants
Single person	40
2 to 5 persons	7
6 to 15 persons	1
Unknown	2

* For the time being we will not be authorising organisations that have non-lawyer owners or managers (known as Alternative Business Structures - ABSs).
However, we do have ambitions to regulate ABSs in the future, subject to a separate application to the LSB.

How do the numbers break down?

Entity type	No. of applicants expressing an interest
Greater London	18

Birmingham	4
Leeds	3
Liverpool	3
Nottingham	2
Rotherham	2
Rest of England	18

Extract from our Professional Conduct Department six-monthly performance report

The Enforcement Interim Report 2014/15 provides an overview of the work of the Professional Conduct Committee (PCC) and Professional Conduct Department (PCD) for the first six months of 2014/15.

In the first six months of 2014/15, we opened 235 new complaints: 160 from sources external to the BSB and 75 internal complaints. We completed 132 risk assessments where we had identified some evidence of a breach of the Handbook that appeared to have an adverse effect on the outcomes in the Handbook – rating 36% of cases as high risk.

There were 37 new referrals to disciplinary action, including 32 cases referred to Disciplinary Tribunals. Disciplinary Tribunal hearings in the six month period led to five barristers being disbarred and two suspended.

We concluded or referred to disciplinary action 79.6% of cases within our service standards. Our target for the year is set at 80% – increased from 75% following the performance of the PCD in 2013/14.

Chart

Data:

Risk assessed: 132

High risk: 48

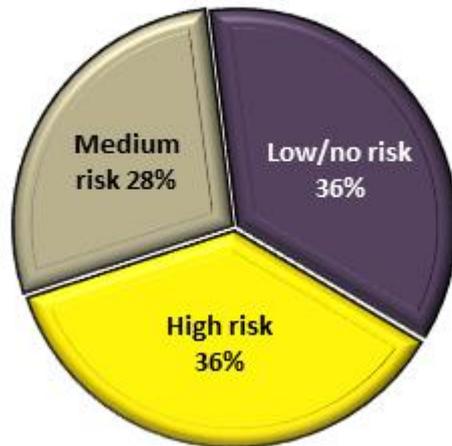
Medium risk: 37

Low/no risk: 47

No risk assessment: 73

Example:

Risk Assessments



Information on how to apply for entity authorisation



Apply to become an entity

<https://www.barstandardsboard.org.uk/regulatory-requirements/for-prospective-entities/how-to-apply/>



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 let us know via contactus@barstandardsboard.org.uk.

Please [email membership@BarCouncil.org.uk](mailto:membership@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).