

# BAR STANDARDS BOARD

REGULATING BARRISTERS

## Regulatory Update – October 2015 edition

News

### **Regulators issue consultation on minor changes to QASA**

Together with the Solicitors Regulation Authority and CILEx Regulation, we have prepared for the implementation of the Quality Assurance Scheme for Advocates (QASA) by launching a new consultation on 1 October.

This consultation seeks input on minor changes to QASA. It is the first phase of the implementation of the Scheme following the decision by the Supreme Court in June that the Scheme is lawful.

We are aware of the Ministry of Justice (MOJ) consultation paper on a package of proposals to maintain standards of criminal advocacy. Maintaining standards is a core regulatory responsibility and we welcome the focus that the MOJ is giving to this issue. It is critical that we ensure that QASA is ready to be implemented in order to complement any panel scheme that the Legal Aid Agency or other agencies such as the Crown Prosecution Service may need to operate from the perspective of purchasers of legal services. This consultation is a key part to getting QASA ready for immediate implementation.

You can read the full QASA consultation document online:  
<http://www.sra.org.uk/sra/consultations/qasa.page>. We invite responses by 24 December.

### **BSB statement on public access top-up training deadline**

Our Handbook states that barristers registered to undertake Public Access work on 4 October 2013 should have either completed Public Access top-up training by 4 October 2015, or have ceased to undertake Public Access work.

We received feedback from training providers that demand for top-up training before the 4 October 2015 was exceeding capacity. We have therefore granted a “period of grace” for one month, during which the providers may make available additional top-up courses. This means that barristers registered to undertake Public Access work on 4 October 2013 must now complete the top-up Public Access training by **4 November 2015**. Barristers who fail to undertake the top-up training by this new deadline will have to cease public access work until they have completed the full public access course.

Barristers who no longer wish to undertake Public Access work should contact the Records Department ([Records@BarCouncil.org.uk](mailto:Records@BarCouncil.org.uk)) to advise that they wish to be removed from the register of barristers who can undertake Public Access work. If barristers are no longer registered to undertake Public Access work, they will not be required to complete the top-up training.

## **Academic Stage and Pupillage Handbooks updated**

We have now published the Academic Stage Handbook 2015-16 <https://www.barstandardsboard.org.uk/qualifying-as-a-barrister/academic-stage/> and the Pupillage Handbook 2015 <https://www.barstandardsboard.org.uk/qualifying-as-a-barrister/pupillage/> on our website.

*You and your regulator*

## **Blog: Monthly message from our Chair Sir Andrew Burns KCMG**

On 5 October, we gathered key law sector organisations to hear me make one of my first keynote speeches about the future of regulation at the Bar.

My speech included:

- an outline of the challenges ahead, as we look to continue to promote high standards in the profession;
- our role in continuing to protect the public, while simultaneously helping the profession to adapt to the changing landscape in legal services;
- thoughts about our new strategy for the period 2016-19; and
- how we use the concept of risk to prioritise what we do.

You can read a transcript of my full speech, on our website.

<https://www.barstandardsboard.org.uk/media-centre/speeches/bsb-chair-sir-andrew-burns-sets-his-vision-for-the-future-of-the-bar-regulator/>

A lively question and answer session sparked further conversations in the Great Hall at Lincoln's Inn.

We are now working with Bar Associations, consumer organisations, and Inns to ensure that we are adopting a risk-based approach to regulation in the public interest; please help us get it right. You can read more about risk on our website:

<https://www.barstandardsboard.org.uk/about-bar-standards-board/how-we-do-it/risk-based-regulation/>.

## **Recruitment of Vice Chair of the BSB**

We will shortly be advertising for a new Vice Chair of the BSB to replace Patricia Robertson QC who is stepping down from that role at the end of this year. If you are interested in applying for the position, do keep an eye on our website where full details will be posted in the week of 12 October.

## **BSB Handbook Explained – conducting correspondence**

Do you know what is required if barristers conduct correspondence on behalf of their clients?

You must only conduct correspondence if you are satisfied it is in your client's best interests to do so, and you have adequate systems, experience and resources for managing the correspondence.

You must also have adequate insurance in place which covers any loss suffered by the client as a result of the conduct of correspondence.

Bear in mind that solicitors' offices have systems for logging incoming and outgoing correspondence and dealing with urgent letters in the absence of the fee earner, which your chambers may not be able to offer.

In addition, where the other side is legally represented and you are conducting correspondence in respect of the particular matter, you are expected to correspond at all times with that other party's legal representative.

Finally, barristers who are not authorised by us to conduct litigation must ensure they do not do so. Our view is that the following fall within the definition of "conducting litigation", and therefore you should refuse to do them if you are not authorised:

- issuing proceedings or applications;
- acknowledging service of proceedings;
- giving your address as the address for service;
- filing documents at court or serving documents on another party; and
- issuing notices of appeal.

### **Alternative Dispute Resolution for Consumer Disputes (Amendment) Regulations 2015 Guidance**

The Consumer Rights Act came into force this month together with the Alternative Dispute Resolution (ADR) Directive <https://www.gov.uk/government/publications/2010-to-2015-government-policy-consumer-protection/2010-to-2015-government-policy-consumer-protection#appendix-8-consumer-rights-act-2015>. In light of this, we have published new guidance on compulsory signposting to ADR entities [https://www.barstandardsboard.org.uk/media/1700514/alternative\\_dispute\\_resolution\\_for\\_consumer\\_disputes\\_amendment\\_regulations\\_2015\\_guidance.pdf](https://www.barstandardsboard.org.uk/media/1700514/alternative_dispute_resolution_for_consumer_disputes_amendment_regulations_2015_guidance.pdf)

This follows the delay to the process of the Legal Ombudsman becoming certified as an ADR approved body for barristers to signpost to clients. The new guidance came into force on 1 October.

### **Practising certificates: a reminder for second six pupils**

We would like to remind second six pupils that your provisional Practising Certificate expires 30 days after you complete your second six. To practise as a barrister, you must then obtain a full Practising Certificate by completing the Authorisation to Practise (ATP) process. We have useful information on our website to help you with ATP including guidance on practising certificates for pupils and newly qualified barristers:

[https://www.barstandardsboard.org.uk/media/1607385/guidance\\_on\\_practising\\_certificates\\_for\\_pupils\\_and\\_newly\\_qualified\\_barristers\\_july\\_2014\\_final.doc](https://www.barstandardsboard.org.uk/media/1607385/guidance_on_practising_certificates_for_pupils_and_newly_qualified_barristers_july_2014_final.doc).

### **Creating inclusive cultures for you, your workforce and clients**

Creating inclusive cultures involves making proportionate adjustments for you, your colleagues and clients so everyone's needs are served; Flexible Working, Equality and

Diversity Policies and the Fair Access to Work rules (rC110-rC113 BSB Handbook) support these aims.

As well as considering everyone's diverse needs on a regular basis, we are inviting you to reflect on the occurrence of various religious and cultural holidays over the next couple of months. This includes Yom Kippur, Eid, Diwali and many others. If possible adjustments should be made although we appreciate it may not always be viable to accommodate requests; but being proactive in discussions with relevant people about potential adjustments in advance will enable: more understanding, improved workforce planning and better customer service.

For more information please see:

Specific ACAS guidance on workplace considerations during religious and cultural holidays: <http://www.acas.org.uk/index.aspx?articleid=4848>

ACAS guidance Religion and Belief and the Workplace: [http://www.acas.org.uk/media/pdf/d/n/Religion-or-Belief-and-the\\_workplace-guide.pdf](http://www.acas.org.uk/media/pdf/d/n/Religion-or-Belief-and-the_workplace-guide.pdf)

### **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.

*Your views matter*

### **Respond to our Future Bar Training consultation – watch our webinar**

On 16 September we explored our Future Bar Training Consultation [https://www.barstandardsboard.org.uk/media/1700434/fbt\\_triple\\_consultation\\_july\\_2015.pdf](https://www.barstandardsboard.org.uk/media/1700434/fbt_triple_consultation_july_2015.pdf) via a webinar which attracted more than 100 registrants.

The webinar is available to listen to on our website <http://view6.workcast.net/?pak=2981599846904555> and there is still time to let us know your views before 30 October.

You can read the full consultation document [https://www.barstandardsboard.org.uk/media/1700434/fbt\\_triple\\_consultation\\_july\\_2015.pdf](https://www.barstandardsboard.org.uk/media/1700434/fbt_triple_consultation_july_2015.pdf) or a summary of the consultation <https://www.barstandardsboard.org.uk/about-bar-standards-board/consultations/open-consultations/> on our website.

### **Call to give views on BIS anti-money laundering consultation**

The Department for Business, Innovation and Skills (BIS) is conducting a review of the Anti-Money Laundering and Terrorist Financing Regime. This is one of six "Cutting Red Tape" <https://www.gov.uk/government/news/financial-red-tape-targeted-in-new-review> reviews the Government is undertaking as part of its Productivity Plan.

This Review is seeking evidence of the impact on business of the current anti-money laundering and terrorist finance regime, and specifically the role of supervisors in that

regime. The aim is to examine the potential to improve compliance and efficiency, by identifying aspects of the supervisory regime that appear to businesses in the regulated sector to be unclear, unnecessarily cumbersome, conflicting or confusing.

Interestingly, the Legal Services Board's Cost of Regulation Report published in March <https://research.legalservicesboard.org.uk/wp-content/media/Cost-of-Regulation-Survey-Report.pdf> noted that a significant proportion of both those regulated as entities and individuals rated areas that are not regulations specific to legal services (for example complying with Money Laundering regulations under the Proceeds of Crime Act 2002) as a regulatory cost.

If you want to find out more about the BIS review, including how to respond, visit the Cabinet Office website <https://cutting-red-tape.cabinetoffice.gov.uk/anti-money-laundering/>. The evidence-gathering phase of this review runs until 23 October.

### **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](mailto:contactus@barstandardsboard.org.uk).

*Please let us know ([records@barcouncil.org.uk](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).*