

# BAR STANDARDS BOARD

REGULATING BARRISTERS

## Regulatory Update – June 2015 edition

### Case Study: One of our first BSB authorised entities

#### **Why did you chose to become a BSB authorised entity?**

“It had been part of my plan to incorporate since before I left traditional chambers in 2008. Not being a fan of inefficiency or imbalance in any business model, I actively and fully participated in all of the subsequent consultations so as to have some input into how those entities could ultimately ‘look’.

“I have decided to become a BSB entity, rather than a Solicitors Regulation Authority (SRA) regulated one, because the final result is very much one that resembles the kind of business structure that suits barristers: an even more efficient way to offer bespoke, non-volume, quality legal solutions to end clients – whether they be professional or lay clients.”

#### **What do you see as the main benefits of entity regulation – for barristers or consumers?**

“At the Bar, we are used to providing specialist, focused advice and representation to clients and adopting a high degree of accountability and responsibility for the service provided.

“I just think that to build that same level of service into a more expandable and commercial format means that clients get access to justice in a more flexible way.

“And we can be more commercial in our approach. It will be interesting to see what different models and structures emerge but, however you look at it, those new ways of doing things simply weren’t possible one month ago and that evolution must be a good thing for the legal services market.”

*“I have decided to become a BSB entity, rather than an SRA regulated one, because the final result is very much one that resembles the kind of business structure that suits barristers”*

#### **What are your thoughts on Entity Regulation for the future?**

“I really just hope that the traditional chambers structure and constitutions will readily adapt to accommodate individual barristers who want to convert to being single person entities but remain as members.

“That aspect doesn’t really affect me personally but it really does matter: at the very least, it is high time that barristers had the benefit of limited liability as opposed to the kind of open ended personal liability that has existed to-date.”

### **The Application/Assessment Process**

#### **How have you found the application process?**

“The application form itself – or rather online portal – is not easy, that’s for sure. It is a detailed process and there were many concepts that were new to me – setting out a formal business plan, detailed year on year financial forecasts, and planning for emergency situations, for instance.

“Once I got past that conceptual shift to forward thinking and contingency planning though (and found some online business planning software!), it was very manageable and the entity regulation team are clearly adopting a very co-operative approach.”

**Were there any elements that you found particularly difficult, or that could be improved?**

“The main issues for me related to the additional documentation that had to be drafted so, for instance, for the Business Continuity Plan I had to research other sectors in order to work out what one was and should contain.

“No doubt that there will be an appetite in the market for further variation.”

“I think that, going forward, the BSB would not be diluting the process if they were to provide suggested (but not obligatory) precedents or pro-formas in relation to such documents and/or they signposted barristers to certain business planning tools.”

**How did you find the assessment process?**

“Rigorous whilst being consultative, transparent and, I have to say, friendly.”

**Were you kept fully informed as to why the BSB was asking for particular information?**

“Yes I was.”

**Alternative Business Structures**

**What are your thoughts on the BSB’s application to the Legal Services Board, for the right to regulate Alternative Business Structures (ABSs)?**

“To be honest that’s not on my personal radar quite yet, but it has to be the right move from a regulatory and commercial perspective. The interesting question will be the Bar Mutual’s position in this regard and whether, unlike with single person entities this time round, they will at this other extreme be selective in their choice of insured and, if so, to what extent.

“Law firm insurance in the open market is a difficult territory to navigate. Be that as it may, I have no doubt that there will be an appetite in the market for this further variation particularly to accommodate ‘family business’ or ‘partnership’ type arrangements.”

**Sir Andrew’s blog**

I can’t quite believe that I will have been in my post for six months by the end of this month! Where has the time gone?

Well, in an attempt to answer my own semi-rhetorical question, my time has mainly been spent working with the executive team and my fellow-Board members, formulating ideas for the future direction of the BSB. As some of you may already know, in 2016 we will be publishing our next three-year strategic plan, so, at the moment, carefully considering the content of that plan is taking up a lot of time. It is set to be a crucial period in the development and maturity of the regulation of the Bar. I can’t say too much about the detail at the moment, but we will be consulting on our proposed strategy later in the year so do watch out for that.

That doesn’t mean to say that we are sitting around waiting to publish a new strategy. Far from it! The direction of travel is clear: pursuing the regulatory objectives by offering more

ways for barristers to compete in the provision of legal services, encouraging a strong and diverse Bar. And of course, we must do this in a way which simultaneously promotes and protects the public interest.

Recent examples of this include our application to the Legal Services Board to become an ABS licensing authority, and the ongoing flow of advocacy-based entities applying to be regulated by the BSB. On this later point, you might like to read a fascinating Q&A style interview with the founder of one of the first BSB-authorized entities in this issue of Regulatory Update. It provides a really interesting insight into deciding to structure practice in a different way.

The other thing which has been taking up my time during my first months in post, has been an ongoing series of meetings with people who are interested in or affected by our work, the Bar itself, and its key influencers. Among the many people whom I have talked to in recent weeks, I have been very pleased to meet a broad cross-section of our senior judges, the Director of Public Prosecutions and her Chief Executive and some of those, like the Chair of the Legal Services Consumer Panel, who are particularly concerned with consumer needs and perceptions.

The recurring theme has been “change”.

For example, I have been hearing about the government’s plans to introduce technological developments to the court and case management systems. These developments seem to have been widely welcomed by both the CPS and the judiciary. So, it seems to me that if this happens, barristers will have to make adjustments to the way in which they manage their caseload and conduct court proceedings. I think it is going to be something for us all to watch in the future.

It has been a busy and interesting first few months. I fully expect the next few months to be the same!

### **Future Bar Training Update – Two important consultations underway**

Our Future Bar Training programme

[https://www.barstandardsboard.org.uk/media/1650565/future\\_bar\\_training\\_programme\\_update\\_february\\_2015.pdf\\_va499362.pdf](https://www.barstandardsboard.org.uk/media/1650565/future_bar_training_programme_update_february_2015.pdf_va499362.pdf) sets out our vision for reforming legal education and training for the next generation of barristers.

We are running two important consultations and we would like to find out what you think:

<b>Consultation</b>	<b>Deadline</b>
Continuing Professional Development (CPD)	Wednesday 2 September 2015
The Professional Statement	Wednesday 24 June 2015

## **Take a look at our newly launched CPD consultation paper**

We would like your views on our Continuing Professional Development (CPD) consultation paper.

We propose to replace the Established Practitioner Programme (EPP), part of the CPD scheme. Currently, if you are on the EPP you must complete 12 hours of CPD every year; of these, the BSB should accredit four.

In our proposed new CPD scheme, you will be:

- free to chart your own learning and development;
- free to determine the type, scope, and volume of CPD you should carry out as it relates to your areas of practice.

Please **visit our website**

[https://www.barstandardsboard.org.uk/media/1668707/cpd\\_consultation\\_2015.pdf](https://www.barstandardsboard.org.uk/media/1668707/cpd_consultation_2015.pdf) to read the consultation paper. The **deadline** for responses is **2 September 2015**.

If you would like to get in touch please email [futurebartraining@barstandardsboard.org.uk](mailto:futurebartraining@barstandardsboard.org.uk).

## **Respond to our Professional Statement consultation before 24 June 2015**

We are consulting on plans

[https://www.barstandardsboard.org.uk/media/1661549/professional\\_statement\\_consultation.pdf](https://www.barstandardsboard.org.uk/media/1661549/professional_statement_consultation.pdf) to create a Professional Statement reflecting the knowledge, skills and attributes a barrister should be able to demonstrate when issued with a full practising certificate. You may have read about it in our recent press release <https://www.barstandardsboard.org.uk/media-centre/press-releases-and-news/%E2%80%9Cprofessional-statement%E2%80%9D-could-be-the-key-to-unlocking-flexible-routes-to-the-bar,-says-regulator/>.

A central tenet of our Future Bar Training programme <https://www.barstandardsboard.org.uk/qualifying-as-a-barrister/future-bar-training/>, the Professional Statement would apply to all areas of practice.

The Professional Statement covers four elements:

- a barrister's technical legal characteristics;
- a barrister's personal values and standards;
- a barrister's management of practice;
- a barrister's ability to work with others.

The Professional Statement will be an invaluable point of reference for anyone designing training.

We hope you will read, share and respond to our proposal. Please send your responses to [futurebartraining@barstandardsboard.org.uk](mailto:futurebartraining@barstandardsboard.org.uk) by Wednesday 24 June 2015.

Look out for another Future Bar Training <https://www.barstandardsboard.org.uk/qualifying-as-a-barrister/future-bar-training/get-involved/> consultation later this summer. You will discover our ideas for the future of the academic stage, the Bar Professional Training Course and pupillage stages of training.

## **Medium Impact Supervision Returns**

We have now sent Supervision Returns to all Medium Impact chambers. Chambers should complete their Supervision Returns by Friday 17 July.

We assessed all chambers as Low, Medium or High impact in April 2014 via the Impact Audit Survey. This survey sought to measure the potential impact of a range of risks should they materialise at a chambers. High Impact chambers completed their Supervision Returns in 2014.

The Supervision Return will assess Medium Impact Chambers as Low, Medium or High risk. The Supervision Return will be asking a series of open questions about how chambers are administered and regulatory compliance is achieved. Essentially, this is 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.

If you have any questions about the Supervision Returns process, please contact the Supervision Team: [supervision@barstandardsboard.org.uk](mailto:supervision@barstandardsboard.org.uk)

## **Announcing our latest BSB equality objectives**

We have created and published Equality Objectives for 2015-2016, in line with our Public Sector Equality Duties. There are four overarching aims underpinned by eleven objectives. In particular, they address our need to increase engagement with a wide range of communities to inform our regulatory functions and inform our equality and access to justice programme. You can read our Equality Objectives [https://www.barstandardsboard.org.uk/media/1667119/equality\\_objectives\\_2015-2016.pdf](https://www.barstandardsboard.org.uk/media/1667119/equality_objectives_2015-2016.pdf) on our website.

Our equality and access to justice work is supported by the Equality and Diversity Committee and delivered by Amit Papat (Policy Manager) and Sarah Charlesworth (Senior Policy Officer). We welcome involvement and comments from stakeholders on our objectives, please get in touch by emailing [equality@barstandardsboard.org.uk](mailto:equality@barstandardsboard.org.uk)

## **CPD Accreditation in 2015: CPD Providers – Are you ‘up to date’?**

A new continuing professional development (CPD) accreditation scheme was implemented in January 2015.

Under our new *CPD Provider Accreditation Scheme 2015* <https://www.barstandardsboard.org.uk/regulatory-requirements/for-cpd-providers-and-approved-pupillage-organisations/bsb-cpd-provider-interim-accreditation-scheme-2015/>, we accredit barristers' chambers (and other organisations) to provide CPD to barristers and those accredited CPD providers are then authorised to self-accredit CPD activities in accordance with the CPD accreditation policy and guidance. The new scheme is intended to give greater autonomy to accredited CPD providers, whilst at the same time introducing a level of quality assurance.

If your chambers was previously accredited under the old CPD accreditation scheme and has not yet transitioned to the new scheme, please contact [CPDAccreditation@BarStandardsBoard.org.uk](mailto:CPDAccreditation@BarStandardsBoard.org.uk) or 020 7611 1444.

### **Do you provide immigration services? We might visit you this summer**

From June to August our Supervision team will visit a random cross-section of barristers who provide immigration advice and services in chambers. We are gathering information for our upcoming review. If you are selected, we will send you details in advance.

We want to find out more about the market for immigration advice and services – identifying examples of good practice as well as areas for improvement. We will be talking to as many people as possible – from barristers, to consumer organisations, to the public and other regulators.

Our review will look at how the market for immigration advice and services by barristers operates, including whether there is unmet demand, and the experiences of people who use these services. We want to find out where our regulation could work more effectively so we can focus our efforts to best serve the public interest.

We will send a separate online survey to a larger, random sample of barristers who provide immigration services.

Later in 2015 we will publish the information we have gathered, recommending what we need to do to manage any identified risks.

For more information email [supervision@barstandardsboard.org.uk](mailto:supervision@barstandardsboard.org.uk)

### **Important Reminder – Public Access Training: Four 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 [https://www.barstandardsboard.org.uk/media/1553795/bsb\\_handbook\\_jan\\_2014.pdf](https://www.barstandardsboard.org.uk/media/1553795/bsb_handbook_jan_2014.pdf)

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/>

### **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) supports these aims.

As well as considering everyone's diverse needs on a regular basis, we are inviting you to reflect on the occurrence of Ramadan commencing on the 17/18 June to 17 July 2015. During the month of Ramadan, Muslims are likely be fasting during daylight and as this could impact on sleep patterns, and therefore, some individuals may be more tired and have varying degrees of concentration; additionally Muslims may be more observant of prayers during the working day and may request flexible working patterns.

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 Ramadan  
<http://www.acas.org.uk/index.aspx?articleid=4868>

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)

### **BSB Handbook Explained – Associations with Others Rules**

Are you a practising barrister who uses a procurement company, or shares premises or costs with any person or organisation not regulated by the BSB?

If so, you are practising in ‘an association’ and must comply with the Associations with Others Rules in the BSB Handbook (Rules C79 – C85).

In particular, if you are practising in ‘an association’ on more than a one-off basis, you must complete the Associations Notification Form and return it to the BSB’s Supervision Department ([Supervision@BarStandardsBoard.org.uk](mailto:Supervision@BarStandardsBoard.org.uk)). The Associations Notification Form is available on our website <https://www.barstandardsboard.org.uk/regulatory-requirements/for-barristers/practising-certificate/201516-practising-certificate-fee-for-the-self-employed-bar/>

NB If you are an employed barrister working for an authorised body which is not regulated by the BSB, and share premises or costs in that capacity, you do not need to complete and return the Associations Notification Form.

### **More about us**

For more information about who we are and what we do, visit our website  
<https://www.barstandardsboard.org.uk/about-bar-standards-board/what-we-do/>

### **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).

### **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).*