



BAR  
STANDARDS  
BOARD

REGULATING BARRISTERS

# Regulatory Update

Monthly update from the Bar Standards Board

May 2016

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## Participate in our licensed access research

Are you a barrister that has been instructed through Licensed Access?

Then we would love to hear from you! There is still time to fill in [our survey on Licensed Access](#). The survey closes on 5pm, Friday 20 May.

Licensed Access is a form of direct access where professionals or organisations can instruct a barrister directly without using a solicitor, and without going through the Public Access scheme. Any barrister can accept instructions via

## Spotlight on consumer needs

*Our Risk Outlook was published in April 2016. This sets out our priority areas of risk in the legal services market and provides some useful context to accompany them. In the second of a series of three features, we summarise the priority area of consumer needs. More*

*detailed analysis and evidence is provided in the main publication, which can be found [on our website](#).*

Consumer. Customer. Client. Some of us use these terms interchangeably, some of us feel quite strongly about which should be used and when. However, they are *just* terms. When a vulnerable individual makes contact with you (or their solicitor does, on their behalf) to advise on their case, it does not matter whether you call them a client or a consumer: who they are and their circumstances will not change.

We follow the Legal Services Act 2007 in its use of the term “consumers”. This defines consumers as people:

- who use, have used or are or may be contemplating using legal services because of a legal issue;
- who have rights or interests which are derived from, or are otherwise attributable to, the use of such legal services by other persons; and
- who have rights or interests which may be adversely affected by the use of such legal services by persons acting on their behalf or in a fiduciary capacity in relation to them.

Our Risk Outlook has identified the market’s difficulty in meeting consumer needs as one of the priority areas of risk. We decided on these areas by identifying and assessing the risks to the regulatory objectives (the latter are set out in the Legal Services Act 2007). This involved the collection and analysis of evidence from a wide range of sources.

It is important that the Bar can meet consumer needs. The Legal Services Consumer Panel has developed a set of Principles that can help us in identifying what consumers needs are. These include access to services, choice of providers and redress if things go wrong. We believe a fair and democratic society is maintained through the ability of consumers to get appropriate remedies through the justice system if they have not been treated fairly. The issues they seek legal advice on can often be uncertain, life-changing and make them vulnerable.

Below, we briefly summarise the four things a person may experience when they think they have a problem...[read more on our website](#).

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## **BPTC statistics highlight gender profile of pupils**

We have published a [new edition of our statistical information on student performance on the Bar Professional Training Course](#)

the Licensed Access scheme (unlike Public Access, no additional training is necessary). Certain professionals are automatically licensed by virtue of [being a member of a named professional body](#). Others need to receive a licence from us before they can instruct a barrister directly in this way.

We would like feedback on how the Licensed Access Scheme is working for barristers and licensed access clients. If you are a barrister who has undertaken Licensed Access work, this is relevant to you. The information from the survey will form a valuable part of our current review of Public and Licensed Access.

**Reminder: respond to our threshold standard and competences consultation**

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

## [\(BPTC\).](#)

The new analysis – which has been updated to include students who completed the BPTC in 2015 – shows that becoming a barrister remains very competitive. New detail in the report provides a clearer analysis than ever before.

Key findings within the statistics were:

- The number of women securing pupillage (**47%**) is now similar to that of men.
- **4,760** students started the BPTC between 2012 and 2014. **72%** have passed the course to date (although it should be noted that this percentage will increase as more recent starters successfully re-sit or complete the two-year part-time course).
- **11%** of all BPTC graduates in the same period achieved the highest grade, "Outstanding".
- **35%** of all UK/EU domiciled graduates enrolled on the BPTC in the academic years commencing in 2011-2013 have gained pupillage since completing the BPTC. Following graduation, some students do not intend to gain pupillage.
- Performance in the BPTC is a better guide to future success in securing pupillage than performance in a first degree.
- White BPTC candidates may be more successful in securing pupillage than BME candidates, but more research is needed to determine whether and, if so, why this may be the case...[read more on our website](#).

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## Are you interested in Alternative Business Structures?

We hope to begin licensing BSB licensed bodies, also called Alternative Business Structures ("ABSs"), later this year. Our application to be approved as a licensing authority has been approved by the Legal Services Board and will shortly be considered by the Lord Chancellor. Secondary legislation must also be in place before the regime can be launched. BSB-licensed ABSs mean that businesses that provide legal services can be owned by a combination of lawyers and non-lawyers. The idea is to promote innovation and flexibility in the legal marketplace, and to draw on the skills and knowledge of both lawyers and non-lawyers.

In April 2015 we began accepting applications from prospective entities, which are businesses owned by lawyers, but not necessarily barristers. We are currently working on a series of case studies to show the range of entities that can now operate under the BSB's regulation, including how they are adopting innovative ways of working, meeting perhaps previously unmet consumer need, reducing costs or increasing access to justice. These new

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 Website Update – Complaints and Professional Conduct

In January, we advised that we had been working with a legal education charity to redesign the Complaints and Professional Conduct section of our website. [All pages are now live.](#)

The purpose of this redesign has been to make it easier for users to navigate the site and locate information. We have streamlined the information and rewritten it in plain English to make it easier to understand.

The project was aimed at making information about complaints accessible to all audiences, which supports our broader aims of promoting greater public and professional understanding of our role and mission.

businesses include Habeas Corpus Project, a non-profit entity providing immigration legal services to refugees, and Captivate, an entity providing legal services to sports people and sporting bodies.

We will soon have revamped website pages for those looking to set up both types of BSB entity. We will include answers to Frequently Asked Questions to help you understand which type of entity may be of interest you.

If you're interested in finding out how we can help you establish an entity or you want to participate in the ABS pilot please register your interest by contacting us at [entityregulation@barstandardsboard.org.uk](mailto:entityregulation@barstandardsboard.org.uk)

Please [contact us](#) if you have any feedback.

**Anupama Thompson appointed as a new Board member to the Bar Standards Board**

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

The official launch of our Strategic Plan for 2016-2019 and Risk Outlook was held on 12 April. More than 100 attendees came to participate in a discussion about the future of regulation for the Bar. We held three separate workshops to discuss our strategic themes, which are: how can we help those whom we regulate to meet unmet consumer need, how can we address the issues of possible discrimination and lack of diversity at the Bar, and how can we address commercial pressures on providers. After the workshops, we had an open forum to allow each group to tell us what they thought the issues were that related to each of the risk themes. We will soon publish a report summarising the discussion, but we also had a number of enthusiastic attendees who contributed to the discussion on Twitter, using the hashtag #BSBStrategicPlan. A panel comprising of four of our Board members, Naomi Ellenbogen QC, Judith Farbey QC, Justine Davidge and Nicola Sawford took questions and comments from the audience...[read more on our website.](#)

We have appointed Anupama Thompson as a Board member, with effect from 1 May 2016.

The Board has a lay majority of eight, including our lay Chair, Sir Andrew Burns KCMG. Anupama (Anu) Thompson will be the seventh barrister member of the Board, making up [the full complement of 15 members.](#)

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### Changes to CPD



Just nine months to go until the new CPD regime for barristers on the Established Practitioner Programme is in place. From January 2017 established barristers will:

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



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