**Regulatory Return 2020 - Chambers**

**About this Regulatory Return**

We are issuing a Regulatory Return to a selection of around 350 chambers, BSB entities and sole practitioners. This is the second time that we have conducted this exercise – the last time being in 2015-16, which you may have been involved in (we called it a “Supervision Return” then).

In the Return, we have asked a range of questions including your views on the risks that your chambers faces, information about the processes and controls you have in key areas of your practice, and some questions on specific topics that are currently a priority in our strategic plan, such as dealing with allegations of harassment.

We are mindful that the current health crisis will have impacted chambers in different ways. We are interested in understanding more about that. For example, whether new risks or opportunities have arisen from COVID-19, whether chambers have modified their governance or working practices or whether it has led to changes in how chambers and barristers use technology in their work.

We have explained below why your chambers has been selected and how we will use the information that you provide. We know it takes valuable time to respond to these Returns, but a number of participants last time told us that they found it useful in prompting them to review their policies and processes and think about where they could be improved, so we hope that you will find it a useful exercise too.

**Why your chambers has been selected**

Our selection is based on an “impact assessment” of all chambers, BSB entities and sole practitioners. This assessment gives us an indication of where the most serious consequences would arise in the event that things go wrong. It shows us the extent of the impact that a risk would have, were it to materialise. For example, inadequate complaints handling processes would have more significant consequences at a chambers with a large number of vulnerable lay clients.

Our impact assessment is drawn from information declared by barristers at Authorisation to Practise, and is based on the following criteria:

* Size of chambers. Larger practices will have inherently higher impact.
* Proportion of public access work and the number of barristers registered for public access work. Lay clients do not have the additional protection of another legal professional involved in their case and there are additional rules in the BSB Handbook for this area of practice.
* Chambers that have a larger practice in crime, immigration or family law. These areas of practice involve the most vulnerable consumers. Crime and family work generate the highest proportion of complaints to the Legal Ombudsman. Our work in immigration services, on the other hand, indicates that consumers are reluctant to complain.
* Number of barristers declaring that they do work in the Youth Courts. We consider this to be a high-risk area of work. Some of the most vulnerable people within the criminal justice system can be affected if they are not adequately represented. You can read more about this on our [website](https://www.barstandardsboard.org.uk/for-barristers/compliance-with-your-obligations/what-do-i-have-to-report-or-tell-to-the-bsb/registration-of-youth-courts-work.html).
* Number of barristers declaring that they do work under the Money Laundering Regulations. This is an area of focus by the Government and so the impact of non-compliance is high. Again, you can read more about this on our [website](https://www.barstandardsboard.org.uk/for-barristers/compliance-with-your-obligations/anti-money-laundering-counter-terrorist-financing.html).

In some cases, our selection is also based on our current assessment of risk, taking into consideration our recent regulatory engagement by the Supervision and Enforcement teams.

**How we will use the information that you provide**

This is an opportunity for you to explain how effectively potential risks are being managed, how you ensure compliance with the BSB Handbook and how you ensure high standards in services that you deliver.

We will use the information that you provide as follows:

1. We will carry out a risk assessment of the chambers based on your responses. This will reflect whether you have been able to demonstrate effective management of risk and compliance with the BSB Handbook. Our Supervision assessment categories are as follows:

High Risk

There is a significant probability that issues identified may have a fundamental impact on Chambers’ ability to meet the Core Duties and Outcomes set out in the Handbook. We are not satisfied that the practice is managed competently and in such a way as to achieve compliance with legal and regulatory obligations. Immediate action should be taken by Chambers to mitigate the risks identified. Chambers will be subject to further monitoring by the Supervision Team as specified.

Medium Risk

A number of important issues were identified and Chambers should address these promptly in order to meet the Core Duties and Outcomes set out in the Handbook. Chambers should report progress to the Supervision Team as specified. In other areas, we are satisfied that your practice is managed competently and in such a way as to achieve compliance with your legal and regulatory obligations.

Low risk

In the areas covered in the Return, we are satisfied that your practice is managed competently and in such a way as to achieve compliance with your legal and regulatory obligations. Some issues where controls could be strengthened may have been identified and these should be followed up by Chambers. No further monitoring by Supervision is planned based on the outcome of this review unless other information comes to our attention.

If we do identify anything specific within a practice which gives us cause for concern, then we will always seek to work collaboratively to make sure that controls are strengthened. Usually, this means that we will agree specific actions and a timeframe for implementation.

1. Some of the questions are on specific topics that are currently a priority in our strategic plan. Your responses will help us gather information that will contribute to our evaluation of recent policy changes or to development of our regulatory policy.
2. Other questions will help us to stay up to date on changes in the profession, which will influence our assessment of risk in the market. You can read more about our approach to risk-based regulation on our [website](https://www.barstandardsboard.org.uk/about-us/how-we-regulate/our-risk-based-approach.html).

Last time we conducted this exercise, we found that it provided a very rich source of information that enabled us to direct our regulatory attention to where it was most needed and to shape our regulatory policies.

**How to answer the questions**

We have provided some guidance for each question, explaining why we are asking the question and explaining the type of information that we want you to include in your response.

There is a limit of 15,000 characters to the length of your response. This roughly equates to 2-3,000 words, which is more than enough for you to provide a full response and we do not expect you to use the full amount available. However, very brief answers will not provide us with enough information to carry out an assessment of your chambers. When we reviewed the Supervision Returns in 2015-16, we found that the chambers most likely to be assessed as high risk were those who provided the most limited answers. Follow-up Supervision visits were required to gather more information. We appreciate the time that it takes to provide comprehensive responses, but if you are able to do so, illustrating it with examples, we are less likely to need to conduct a follow-up visit.

You do not need to provide any other documents, but we may ask you for further information when we review your Return.

If you need clarification or help with any of the questions or submitting your completed Return, please email [supervision@barstandardsboard.org.uk](mailto:supervision@barstandardsboard.org.uk) and a member of the Supervision team will be pleased to help you.

**How to submit your completed Return**

You must complete the Return using the form on MyBar. This enables us to assess and collate the responses efficiently. The Word version that follows has been provided solely for your own use, in case you want to use it to assist you when preparing your responses.

**Deadline for submitting your Return**

The deadline for submitting your completed Return to us is **4 January 2021**. We appreciate that the health emergency (COVID-19) has affected the Bar in a range of ways and for many this has been a very difficult time. Indeed, your responses to some of the questions will help us to understand this better. If this deadline is going to be difficult for you to meet because of the impact of COVID-19 (or indeed for any other reason), please contact us by emailing [supervision@barstandardsboard.org.uk](mailto:supervision@barstandardsboard.org.uk) so that we can discuss it with you.

**Confidentiality of information that you provide to us**

When exercising our regulatory functions, we may be in control of various types of private or sensitive information, including commercially sensitive information about chambers, entities and their bank accounts; personal or sensitive information about individual barristers or their clients; and documents which would be covered by legal professional privilege. The BSB is under a range of legal duties to keep confidential the information in its control or possession that is of a private nature. These duties restrict our powers to share data with third parties. However, in exceptional circumstances where it is in the public interest, information may be shared with other regulators or agencies.To find out more about how we handle personal data, please see our [privacy statement](https://www.barstandardsboard.org.uk/footer-items/privacy-statement/).

**When you can expect to hear from us and what happens next**

We will be reviewing the Returns as they are submitted and you can expect to hear from us by the second quarter of 2021, depending on when you submit your response. We will contact you to tell you whether your chambers has been assessed as high, medium or low risk, and agree with you any follow up actions that may be required. We will call the contact you have given us and follow up in writing.

**Contact details**

Please provide the name of the person we can contact about the Return.

**Name:**

**Job title or role:**

**Email address:**

**Telephone number:**

**Is the above contact the person that your chambers appointed to liaise with the BSB under** [**rule C89.2**](https://www.barstandardsboard.org.uk/the-bsb-handbook.html?part=&audience=&q=rC89) **of the BSB Handbook?**

If not, please provide the name and contact details of that person here.

**Has the Return been reviewed by the Head of Chambers?** Yes/No

**Governance arrangements**

1. **Please tell us how your chambers is organised.**

*Relevant rules and guidance*

In the BSB Handbook, rule C89.1 says that you must take reasonable steps to ensure that your chambers is administered competently and efficiently.

*Why are we asking this question?*

Your response will help us to assess how well you meet rC89.1.

*Guidance to assist with your response*

This question is about the governance arrangements that you have in place - how chambers has been set up and how it is run. In your response, you should tell us about the following:

* any committees that you have and what their responsibilities are;
* any designated roles that member of your chambers have;
* what staff you employ and what their roles are;
* whether chambers has a limited company, trade protection association or similar for the purposes of managing its financial and administrative affairs; and
* any other information about the organisational structure and roles that you think is relevant to achieving rC89.1.

1. **Does your chambers have an up-to-date constitution?**

*Relevant rules and guidance*

In the BSB Handbook, rule C89.1 says that you must take reasonable steps to ensure that your chambers is administered competently and efficiently.

*Why are we asking this question?*

Your response will help us to assess how well you meet rC89.1 and to understand how well-prepared your chambers is in the event that scenarios arise that could destabilise chambers.

It will also help us to assess how chambers have responded to changed circumstances and the risks identified during the COVID-19 pandemic.

*Guidance to assist with your response*

In answering this question, please tell us when you last reviewed your constitution, when your next review is scheduled and how you came to this decision. If you have reviewed it recently, have you considered the type of planned or unplanned scenarios that any chambers might need to deal with. These might include:

* whether you have updated or adapted your constitution in light of the COVID-19 pandemic;
* issues that impact individual membership of chambers (e.g. unplanned absence, disciplinary matters and disputes);
* financial settlements (e.g. when members leave chambers);
* BSB entities (e.g. what happens when a member of chambers wants to work through a BSB entity); and
* arrangements for winding up chambers.

**Risk management**

1. **How are key risks in your chambers identified?**

*Relevant rules and guidance*

In the BSB Handbook, rule C89.8 says that you must take reasonable steps to ensure that appropriate risk management procedures are in place and are being complied with.

*Why are we asking this question?*

Your response will help us to assess how well you meet rC89.8.

*Guidance to assist with your response*

When we refer to risk, we mean the threat to achieving an objective. For a chambers, the risks may include:

* Financial: the ability to win enough good quality work to make the practice of its barristers financially viable.
* Market risks: the ability to adapt to a changing market.
* Reputational: the risk that chambers’ reputation is damaged by the actions of its members or staff, for example due to lack of competence or unethical conduct.
* Information security: the risk that data is corrupted or not kept confidential.

When we refer to risk management, we mean the way that the most important risks are identified, monitored and managed, so that a chambers is positioned strongly for the future.

Agreeing the most important risks and how they are managed can help members of chambers and staff to have a shared vision about, and therefore confidence in, the future of chambers, and about where limited resources should be focussed.

This question is about the approach that you take to identifying risks in your chambers (the next question is about the specific risks that you have identified). You could refer to:

* relevant policies;
* individual or committee responsibilities;
* key processes; and
* key documents that are produced.

1. **Please summarise the key information security risks identified by your chambers (for both chambers and barristers) and describe how these risks are being managed/ controlled.**

*Relevant rules and guidance*

Core Duty 6 says that you must keep the affairs of each client confidential.

Rule C89.5 says that proper arrangements must be made for ensuring the confidentiality of clients’ affairs.

Core Duty 10 says that you must take reasonable steps to manage your practice, or carry out your role within your practice, competently and in such a way as to achieve compliance with your legal and regulatory obligations.

Rule C89.8 says that you must take reasonable steps to ensure that appropriate risk management procedures are in place and are being complied with.

Barristers, practising pupils and chambers must comply with the [Data Protection Act](http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted).

The Bar Council has produced a range of guidance in this area on its [Ethics and Practice hub](https://www.barcouncilethics.co.uk/subject/it/).

*Why are we asking this question?*

Risks range from the rising number of cyber-attacks to the more traditional risks, such as leaving papers on a train. Barristers and chambers handle highly sensitive personal data daily so the potential consequences for barristers, chambers and the profession of failing at data protection compliance are significant. The damage that can be done by one barrister to the reputation of their chambers, as well as to their colleagues, can be significant.

Your response will also help us to assess how well you meet your obligations under the BSB Handbook and in legislation, as set out above.

*Guidance to assist with your response*

We want you to tell us how you ensure that your chambers, barristers and pupils meet these Core Duties and obligations.

You should describe the key controls that you have in place:

* as part of case management processes; and
* in managing data security inside and outside chambers.

In responding, you should describe the following:

* Your approach to identifying the risks which chambers and barristers are subject to.
* Whether you have identified any new risks arising from the impact of the COVID-19 pandemic.
* How you ensure that all staff and barristers understand what their obligations are and what they need to do to comply with the Data Protection legislation, including your approach to training.
* Specific roles and responsibilities in chambers, and how you ensure that they have appropriate capability.
* If and how you have defined what you consider to be appropriate compliance. How do you ensure consistency across all barristers and pupils? For example, what evidence of compliance do you require from barristers and pupils?
* What agreements and protocols you have in place with third parties? For example, how do you ensure secure transfer of data and physical files between locations and organisations?
* Your policy and processes for reporting and managing data breaches.
* Your approach to implementing appropriate technical and organisational security measures.
* Details of any relevant accreditations chambers, chambers staff or barristers have achieved. Examples might include:
* ISO 27001
* ISO 9001
* [Cyber Essentials](https://www.cyberessentials.ncsc.gov.uk/) or Cyber Essentials Plus
* [GDPR Certification for Barristers](https://www.briefed.pro/gdpr-certification-for-barristers)

1. **Please tell us about any data breaches reported by chambers and/or barristers to the Information Commissioner’s Office.**

*Relevant rules and guidance*

Rule C65 of the BSB Handbook requires you to report to the BSB if you are the subject of any disciplinary or other regulatory or enforcement action by another regulator, which would include the ICO, and to report serious misconduct to the BSB.

The obligation to report a personal data breach to the ICO is set out in [section 67](http://www.legislation.gov.uk/ukpga/2018/12/section/67/enacted) of the Data Protection Act.

*Why are we asking this question?*

The legal sector typically makes over 200 [reports to the ICO](https://ico.org.uk/action-weve-taken/data-security-incident-trends/previous-reports/) each quarter. Very few breaches are reported to the BSB under rC65. Your answer to this question, when combined with the responses of others, will help us to understand the extent of data breaches in the Bar and why they are not reported to the BSB.

Information security incidents and data breaches have the potential to destabilise chambers. Your answer to this question, when combined with the responses of others, will help us to understand the extent to which this risk affects the Bar.

*Guidance to assist with your response*

Your response should address the following for the period since 25 May 2018 (which is when the Data Protection Act came into effect):

* Details of any data breaches reported by chambers to the ICO, regardless of the ultimate ICO decision, including any assessment of lessons learned.
* Details of any data breaches reported by barristers and pupils to the ICO, regardless of the ultimate ICO decision, including any assessment of lessons learned.
* Details of any “near misses” i.e. a data breach that you decided not to report to the ICO, including any assessment of lessons learned. Please tell us the reasons why you decided not to report the matter to the ICO.
* Please tell us if these incidents were reported to the Bar Standards Board. If not, please tell us whether you considered doing so and why you decided not to.

1. **Please tell us about any instances of fraud, irregularity or “near misses”.**

*Relevant rules and guidance*

Rule C89.8 says that you must take reasonable steps to ensure that appropriate risk management procedures are in place and are being complied with.

*Why are we asking this question?*

Fraud is the most commonly experienced crime in the UK, with an estimated overall cost of £190 billion according to the National Crime Agency. Reported fraud continues to increase in volume. According to the Office for National Statistics, reports of fraud rose by 12% in 2018 but is significantly underreported. In 2017/18, only 3% of reported fraud led to criminal charges, cautions etc.

Your answer, when combined with the responses from others, will help us to assess the extent to which the Bar is affected by fraud and irregularity.

*Guidance to assist with your response*

In your response please tell us the following:

* The details of any fraud, suspected fraud, cyber-attacks, scams or other irregularity at your chambers that have resulted in a loss (financial or reputational) including any assessment of lessons learned.
* If these incidents were reported to the Bar Standards Board. If not, please tell us whether you considered doing so and why you decided not to.

1. **Is your chambers currently using, or are you planning to introduce, new and innovative technology? If yes, please provide details of the technology and the support given to barristers. If no, why is this?**

*Relevant rules and guidance*

Rule C89.8 says that you must take reasonable steps to ensure that appropriate risk management procedures are in place and are being complied with.

*Why are we asking this question?*

One of the three themes in the [BSB’s Risk Outlook](https://www.barstandardsboard.org.uk/uploads/assets/6bb68426-03bf-4e97-86c6cb4780c76743/bsbriskoutlook2019.pdf) is that “innovation and disruption in the legal services market offer threats and opportunities for the profession and for the public.” Available evidence, although relatively limited, suggests that technologically driven changes have already started to affect the profession. Further technological developments could bring the potential for significant changes in the way barristers’ services are delivered. The legal services market is likely to be facing a period of considerable change and adjustment. However, research also suggests that a lack of

flexibility in how barristers’ services are delivered may make it more difficult for the Bar

to adapt to a changing market and respond to changing consumer needs.

This is reflected in the [BSB’s 2019-2022 strategic plan](https://www.barstandardsboard.org.uk/uploads/assets/4b599307-da48-4e4e-a8e2ff3bf83934bd/bsbstrategicplan2019-22.pdf). Our third strategic aim is “advancing justice in a changing market”. Through this strategic aim we will develop our understanding of the way in which technology and other innovations are changing the way in which legal services are provided and the administration of justice is delivered, and how that affects the public and barristers.

Your response to this question, when combined with responses from others, will help us to understand the extent, and impact of technological change, and will inform our view of risk in this area.

*Guidance to assist with your response*

Your response should address the following:

Whether any innovative technology has been introduced or is planned for introduction (an example might be the use of artificial intelligence).

* If your answer is yes, please provide details of the technology.

Has the COVID-19 health emergency led to any changes in the use of technology?

How have you supported barristers to make use of the necessary technology to manage their practices remotely over the last few months?

What risks, if any, have you recognised around the use of technology, either for yourself or for clients, and how are you seeking to manage them?

What thought you have given to the training your barristers may need to enable the use of technology, and how have you sought, or will you seek to achieve that?

If you considered introducing technology but decided not to, why is this? For example, is there any aspect of regulation that currently hinders your use of technology?

Do you have any suggestions as to how the BSB could enable you to make greater use of technology or innovation?

1. **Please summarise other key risks that your chambers has identified and describe how these risks are being managed/ controlled.**

*Relevant rules and guidance*

In the BSB Handbook, rule C89.8 says that you must take reasonable steps to ensure that appropriate risk management procedures are in place and are being complied with.

*Why are we asking this question?*

Your response will help us to assess how well you meet rC89.8. It will also help to inform our understanding of risks that are facing the profession and our [approach to risk-based regulation](https://www.barstandardsboard.org.uk/about-bar-standards-board/how-we-do-it/our-risk-based-approach/).

*Guidance to assist with your response*

We want you to tell us what the most important risks are that you have identified and the action you are taking to manage them. Some examples might include:

* Financial: the ability to win enough good quality work to make the practice of its barristers financially viable.
* Market risks: the ability to adapt to a changing market.
* Reputational: the risk that chambers’ reputation is damaged by the actions of its members or staff, for example due to lack of competence or unethical conduct.
* The health and well-being of barristers: the impact this might have on competence or ethical conduct, or on access to justice if barristers leave the profession in significant numbers.

Please specifically include the following information:

* What are your key financial risks?
* What is your view of your current level of aged debt? What policies or procedures do you have in place for writing off or pursuing aged debt?
* Has your chambers experienced any cash flow problems over the last year/does it anticipate problems?
* Have any new risks arisen as a result of the COVID-19 pandemic, that are not covered elsewhere in this Return?

1. **Do you foresee any other changes in external factors over the next 12 months in the environment in which your chambers operates?**

*Relevant rules and guidance*

In the BSB Handbook, rule C89.8 says that you must take reasonable steps to ensure that appropriate risk management procedures are in place and are being complied with.

*Why are we asking this question?*

Your response will help us to assess how well you meet rC89.8. It will also help to inform our understanding of risks that are facing the profession and our [approach to risk-based regulation](https://www.barstandardsboard.org.uk/about-bar-standards-board/how-we-do-it/our-risk-based-approach/).

*Guidance to assist with your response*

If your answer is yes, please tell us what changes you anticipate, how you think they will impact your chambers or the wider profession, and what plans you are making to deal with the changes.

We are particularly interested in the ongoing and longer-term impact of the COVID-19 health emergency for your chambers and the profession as a whole, e.g.:

* impact of remote working
* the support infrastructure that chambers provide to barristers
* the impact on pupillages
* whether barristers will leave the profession or certain practice areas
* the pressures of the crisis for the well-being of barristers and the risks that gives rise to.

1. **Is your chambers planning any other significant changes in the next 12 months?**

*Relevant rules and guidance*

In the BSB Handbook, rule C89.8 says that you must take reasonable steps to ensure that appropriate risk management procedures are in place and are being complied with.

*Why are we asking this question?*

Your response, when combined with responses from others, will help us to understand how the profession may be changing and will help us to plan our approach to risk-based regulation. In particular, it will support our evidence for delivering [our third strategic aim](https://www.barstandardsboard.org.uk/uploads/assets/4b599307-da48-4e4e-a8e2ff3bf83934bd/bsbstrategicplan2019-22.pdf), advancing access to justice in a changing market.

*Guidance to assist with your response*

This could include expansion, collaboration, merger, closure, setting up an entity, becoming authorised to take pupils, changes to practice areas or administration. You should outline what changes are planned and how your chambers is preparing for them.

1. **What are your financial projections for the year ending 31 March 2021?**
2. **What is the** **projected percentage change in fee income of barristers in your chambers?**
3. **What is the projected percentage change in working hours of barristers in your chambers?**
4. **How many barristers do you expect will renew their practising certificates in 2021/22?**

*Relevant rules and guidance*

Every practising barrister has to renew their practising certificate annually and is required to pay a Practising Certificate Fee (PCF), which is based on their declared income.

*Why are we asking this question?*

A proportion of the PCF is spent by the BSB on regulation and a proportion is spent by the Bar Council on some of its functions (as permitted under s51 of The Legal Services Act). The PCF also pays for the Bar’s share of the costs to run the Legal Services Board and The Legal Ombudsman. Further details are provided in our [Annual Report](https://www.barstandardsboard.org.uk/news-publications/publications/annual-reports-and-enforcement-reports.html).

Given the extraordinary conditions this year, as a result of Covid-19, we need to gather information that will help us to prepare our financial projections for 2021/22. Your answers, when combined with responses from others, will help us to do this.

When combined with the information we hold about your areas of practice, your response will also help us to understand how the profession may be changing and will help us to plan our approach to risk-based regulation. In particular, it will support our evidence for delivering our [third strategic aim](https://www.barstandardsboard.org.uk/uploads/assets/4b599307-da48-4e4e-a8e2ff3bf83934bd/bsbstrategicplan2019-22.pdf), advancing access to justice in a changing market.

*Guidance to assist with your response*

The information that you provide will be used by our Finance function to model the impact of Covid-19. We may share this data in an anonymised state with the Bar Council, however it will not be shared with any other third parties. If you have any concerns about this information being provided to the Finance function, please do contact us.

1. **Is there any other information that you would like the BSB to be aware of in considering risks associated with your chambers?**

*Relevant rules and guidance*

In the BSB Handbook, rule C89.8 says that you must take reasonable steps to ensure that appropriate risk management procedures are in place and are being complied with.

*Why are we asking this question?*

Your response, when combined with responses from others, will help us to understand how the profession may be changing and will help us to plan our approach to risk-based regulation.

*Guidance to assist with your response*

You can use this question to give us any other information that you think is relevant to our assessment of your chambers or our approach to risk-based regulation.

**Client Service and Delivery**

1. **Are you compliant with the price, service and redress transparency rules?**

*Relevant rules and guidance*

Rules C103 and C159-169 of the BSB Handbook set out the information that you must provide to clients directly or via your website in order to meet the price, service and redress transparency rules, which came into force on 1 July 2019.

Guidance on the rules is available on our [website](https://www.barstandardsboard.org.uk/for-barristers/bsb-handbook-and-code-guidance/code.html).

*Why are we asking this question?*

It is just over a year since the Bar transparency rules came into force. The rules were introduced to improve the information available to the public before they engage the services of a barrister by helping consumers understand the price and service they will receive, what redress is available, and the regulatory status of their provider.

Earlier this year, we carried out a review to assess the progress made so far by the profession in implementing the rules. 75% of those assessed during our review were found to be either compliant or partially compliant, which represents good progress but there is more work to be done to ensure that everyone is compliant.

Your response will help us to assess the extent to which the Bar is now fully compliant with the rules.

*Guidance to assist with your response*

If we were in contact with you as part of the review earlier this year and you were assessed as compliant, you simply need to say that in your response.

If we were in contact with you as part of the review earlier this year and you were assessed as partially compliant or non-compliant, please tell us if you have addressed the areas of non-compliance in the feedback that we gave you and are now compliant.

If we have been not in contact with you on this subject, it means that you were not part of the sample that we reviewed. Before you respond to this question, please look at our [report](https://www.barstandardsboard.org.uk/uploads/assets/3359c36e-ef3e-449d-883e18c5ebeabad6/202006-External-Transparency-spot-check-report.pdf) on the common themes that emerged from the review, in conjunction with our guidance, and take another look at the information you are providing to check whether it is compliant with the rules.

1. **What changes have you made in response to the new transparency rules, and what (if any) impact have you observed since these changes have been introduced?**

*Relevant rules and guidance*

Rules C103 and C159-169 of the BSB Handbook set out the information that you must provide to clients directly or via your website in order to meet the price, service and redress transparency rules, which came into force on 1 July 2019.

Guidance on the rules is available on our [website](https://www.barstandardsboard.org.uk/for-barristers/bsb-handbook-and-code-guidance/code.html).

*Why are we asking this question?*

Your response, when combined with responses from others, will help us to evaluate the impact that the new rules have had, both within chambers/BSB entities and on consumer understanding. It will also help us to evaluate how easy or difficult it has been for the Bar to comply with the rules.

*Guidance to assist with your response*

Your response should address the following:

* Any challenges or barriers that you faced implementing or complying with the rules.
* How useful you found the BSB information and [guidance](https://www.barstandardsboard.org.uk/for-barristers/bsb-handbook-and-code-guidance/code.html) about the new rules.
* Any positive or negative impacts on your chambers that you have noted.
* Any positive or negative impacts on clients or prospective clients that you have noted.

1. **Do your barristers have any clients that they engage with in a retainer arrangement? If so, please provide details.**

*Relevant rules and guidance*

The following rules in the BSB Handbook may be relevant. When answering, you should have regard to compliance with the following:

* Rules C29-30, “the cab rank rule.”
* Rule C73, which states that “except where you are acting in your capacity as a manager or employee of an authorised (non-BSB) body, you must not receive, control or handle client money apart from what the client pays you for your services.”
* Rule C89.8 which says that you must take reasonable steps to ensure that appropriate risk management procedures are in place and are being complied with.

*Why are we asking this question?*

Your response, when combined with responses from others, will help us to understand any trends in the way that barristers engage with clients.

*Guidance to assist with your response*

By “retainer arrangement”, we mean any arrangement whereby you have an agreement with a professional or lay client to provide agreed services or time for a fixed or ongoing period. If there are any retainer arrangements in place, please tell us the following:

* how many such arrangements you have in place;
* how many clients you have such agreements with;
* the type of clients that are party to such agreements and whether they are engaged on a public access basis;
* the areas of practice;
* the typical duration of such retainers;
* the financial arrangement;
* the typical retainer fee;
* contingency arrangements in the event that the retainer cannot be serviced (e.g. if chambers closed or the relevant barrister was not available, for any reason).

1. **How do you ensure that lay clients who want to complain feel able to complain, know how to complain and feel confident that their complaints will be taken seriously?**

*Relevant rules and guidance*

The BSB has a number of outcomes in relation to client complaints:

* Outcome C19 of the BSB Handbook requires that clients understand how to bring a complaint and complaints are dealt with promptly, fairly, openly and effectively;
* Outcome C26 requires that clients are provided with appropriate information about redress, know that they can make a complaint if dissatisfied, and know how to do so; and
* Outcome C27 requires that complaints are dealt with promptly and the client is kept informed about the process.

The complaints rules in the BSB Handbook are rules C99-109.

The following guidance is available:

[BSB guidance on first tier complaints handling](https://www.barstandardsboard.org.uk/media/1666549/first_tier_complaints_handling_-_may_2018_final.pdf)

[BSB guidance on consumer feedback](https://www.barstandardsboard.org.uk/about-bar-standards-board/resources/june-2018-engaging-with-feedback-from-consumers-of-legal-services/)

*Why are we asking this question?*

Your response to this question will help us to assess how well you meet the complaints rules and outcomes in the BSB Handbook.

Your response, when combined with responses from others, will also help us to understand how well the profession takes action to prevent there being “silent sufferers” (see the guidance to this question).

*Guidance to assist with your response*

As part of your response, please include the following information:

* How you ensure that lay clients know how to complain if they need to.
* How you ensure that lay clients who want to complain feel able to complain and feel confident that their complaints will be taken seriously. In your response, please consider the following statement by the Legal Services Board to the regulators: “the number of consumers who could be termed “silent sufferers” appears to remain relatively high. These are people who understand how to complain but are unwilling to do so due to lack of confidence that their provider will resolve their complaint”.
* How many complaints your chambers has received over the last 12 months and what percentage of cases this represents.
* Whether you provide opportunities for lay clients to provide you with feedback (including positive feedback) outside of your complaints process.
* Whether and how you monitor trends in feedback and complaints.
* Whether you have identified themes from feedback and/or complaints which have resulted in changes to the service you provide.

1. **What role does your chambers play in ensuring that your barristers are competent to accept instructions? What do you do if you have, or have received concerns about the competence of one of your barristers?**

*Relevant rules and guidance*

Core duty 7 of the BSB Handbook requires that “you must provide a competent standard of work and service to each client.”

Rule C21.8 says that barristers must not accept instructions to act in a particular matter if they are not competent to do so.

*Why are we asking this question?*

Assuring the competence of barristers remains a priority for the BSB and we have published [our approach](https://www.barstandardsboard.org.uk/about-us/what-we-do/assuring-the-competence-of-barristers.html) to assuring the competence of barristers.

The ongoing competence of barristers and other legal professionals is an area of focus for the Legal Services Board, which has a [policy objective](https://www.legalservicesboard.org.uk/our-work/current-work/ongoing-competence) that “regulators have appropriate frameworks for continuing assurance of professional competence throughout the careers of the people they regulate.”

Your response, when combined with responses from others, will help us to understand the role that chambers play in assuring the competence of barristers.

In addition, the COVID-19 pandemic has created the need to adapt to new ways of working. Your response, when combined with responses from others, will help us to understand any emerging trends arising from the impact of the COVID-19 pandemic and how that might impact the skills that barristers need for the future.

*Guidance to assist with your response*

Whilst it is the professional responsibility of barristers to only accept instructions for which they are competent, we are interested to understand whether your chambers plays a role in ensuring that this obligation is complied with. For example, does your chambers have any central oversight or management of barristers’ Continuing Professional Development (CPD)?

We are also interested to understand whether chambers has considered the impact of the COVID-19 pandemic in relation to competence. For example, what are the training and continuing professional development consequences if more court hearings are held remotely in future?

1. **In addition to having a Qualified Person, how does your chambers support new practitioners in the early years (first three) of practice?**

*Relevant rules and guidance*

The rules relating to the requirements to have a Qualified Person are set out in rules S20-22 of the BSB Handbook.

In addition, new practitioners must meet specific CPD requirements, as set out in rule Q132.

*Why are we asking this question?*

We are currently reviewing our rules in relation to Qualified Persons and the New Practitioners Programme (the first three years of practice). Your answer to this question, when combined with responses from others, will help us to understand how the rules are currently working. This will fill gaps in our evidence base to inform our review.

*Guidance to assist with your response*

When answering this question, you could consider:

* How you identify the support that new practitioners need;
* Specific areas of knowledge or skills that should be focussed on in the early years of a barrister’s practice;
* Examples of the support you have, or could, provide.

1. **Please tell us, where applicable, which software you use to manage diaries and cases within chambers.**

*Relevant rules and guidance*

Rule C89.1 of the BSB Handbook says that you must take reasonable steps to ensure that your chambers is administered competently and efficiently.

Rule C89.5 of the BSB Handbook says that proper arrangements must be made in chambers for the management of conflicts of interest and for ensuring the confidentiality of clients’ affairs.

*Why are we asking this question?*

Your response to this question will help us to understand the resources that you have in chambers that support you in meeting your obligations under rule C89.

*Guidance to assist with your response*

Chambers that use market-standard, off-the-shelf applications (ie. software designed for barristers’ practices, that is widely used) are likely to be best placed to ensure effective and secure management of cases and client information.

When answering this question, please tell us which application(s) you use to manage cases and diaries, what risks you have identified and how the risks are managed.

1. **Other than solicitors, licensed access instructions and public access instructions received directly from clients, do your barristers receive instructions from other sources?**

*Relevant rules and guidance*

The rules relating to associations with others are covered by rC79-85 in the BSB Handbook. An association is where barristers or BSB entities share premises, costs and/or a vehicle for obtaining or distributing work (e.g. a virtual/online referral service) with any person or body not regulated by the BSB.

From 2020, barristers are required to declare at Authorisation to Practise if they are supervising immigration advisors. We have published [guidance for barristers that are supervising immigration advisors](https://www.barstandardsboard.org.uk/for-barristers/bsb-handbook-and-code-guidance/code.html).

*Why are we asking this question?*

We are asking this question because there are a growing number of online referral platforms that barristers are able to sign up to, particularly in the area of public access instructions. These platforms are not registered as chambers with the BSB. Your response, when combined with responses from others, will help us to understand the extent to which traditional sources of instructions are changing and whether our approach to regulation and supervision remains fit for the future.

In addition, we are aware that some barristers supervise individuals and businesses that are not otherwise regulated, in the areas of immigration services and claims management. Such work should be engaged on a public access basis and declared as an association.

We are aware that the associations rule is not well understood and consequently not consistently adhered to.

*Guidance to assist with your response*

In answering this question, you should consider the following:

* We are aware that some chambers choose not to engage in public access work, but some of their barristers receive public access instructions outside chambers. Do your barristers receive instructions from other people or organisations directly, which are not processed through chambers (e.g. virtual/online referral services)?

Whether chambers, or individual members, have associations with others.

Please list any association arrangements that chambers and/or its barristers have and describe the financial and contractual arrangements that are in place.

**Practice management**

1. **How do you ensure that staff working in your chambers are competent to do so?**

*Relevant rules and guidance*

Rule C89 says that you must ensure that your chambers is administered competently and efficiently. Rule C89.6 says that you must take reasonable steps to ensure that all non-authorised persons working in your chambers are competent to carry out their duties.

*Why are we asking this question?*

Your response will help us to assess the controls that you have in place in your chambers to ensure that non-authorised persons (i.e. people who are not barristers, pupils or authorised by another approved regulator) are competent.

*Guidance to assist with your response*

In answering this question, you should consider the following:

* What policies or processes do you have in place in relation to the competence of chambers staff?
* How does chambers assess the competence of staff before they join (e.g. reference and vetting checks) and during their employment (eg. appraisal processes)?
* What do you do if issues relating to competence of staff are identified?

1. **Have any pupils, barristers or staff raised a grievance in the last 12 months?**

*Relevant rules and guidance*

Rule C89.1 states that you must take reasonable steps to ensure that your chambers is administered competently and efficiently.

*Why are we asking this question?*

Your response will help us to assess how well you meet rule C89.1.

*Guidance to assist with your response*

Please tell us if you have a grievance/internal complaints policy and process. If so, please describe it. Also, please provide a summary of any grievances raised and any changes made in your chambers as a result of reviewing the outcome.

1. **Does your chambers have an up to date, documented Disaster Recovery/ Business Continuity Plan?**

*Relevant rules and guidance*

Rule C89.8 says that you must take reasonable steps to ensure that appropriate risk management procedures are in place and are being complied with.

*Why are we asking this question?*

Major incidents including natural disasters, major power failures, major cyber-attacks and terrorist attacks have the potential to disrupt chambers and prevent its members and staff from working, which could impact access to justice. Your answer to this question will help us to understand whether your chambers could continue functioning if faced by such a disaster, and to understand the overall resilience of the Bar.

The COVID-19 health crisis has been a real-life test for the effectiveness of business continuity plans. Your answer to this question, when combined with the responses of others, will help us to understand how the COVID-19 health crisis has influenced business continuity planning.

*Guidance to assist with your response*

In your response, please tell us:

* Whether you have considered what could prevent chambers from continuing to function (i.e. what the risks are) and what plans are in place to manage your response and ensure business continuity, should a disaster occur.
* If you have documented a plan.
* Whether you have tested your plan.
* What lessons you have learned from the impact of the COVID-19 pandemic and what changes you have or will be implementing as a result.

1. **How do you monitor for changes in the BSB Handbook and make sure that people in your chambers are up to date with regulatory requirements?**

*Relevant rules and guidance*

Core Duty 10 states that you must take reasonable steps to manage your practice, or carry out your role within your practice, competently and in such a way as to achieve compliance with your legal and regulatory obligations.

*Why are we asking this question?*

Your response to this question will help us to assess how well your chambers meets CD10.

*Guidance to assist with your response*

In answering this question, you should consider the following:

* When did you last review the Handbook for changes?
* How do members of chambers learn about new regulatory requirements?

1. **What feedback do you have on the Code of Conduct in the BSB Handbook?**

*Relevant rules and guidance*

The Code of Conduct forms Part 2 of the BSB Handbook, which has set the standards of conduct for barristers since 2014. It serves as the key regulatory tool through which we can ensure that the effective administration of justice is served.

*Why are we asking this question?*

As part of our Strategic Plan, we are conducting a review of the Handbook. We are prioritising the review of Part 2 of the Handbook – the Code of Conduct.

We want the Code of Conduct to be accessible for barristers, users of barristers’ services, and the general public. Our aim is that the Code should allow consumers to understand what to expect from barristers as well as providing clarity about the regulatory regime with which barristers must comply. Your response to this question will help to inform our review.

*Guidance to assist with your response*

Thinking about how your practice and the environment in which you operate is changing, or will change, we want you to tell us whether there are any aspects of our regulations which are inflexible or limit your ability to adapt, or you think remain fit for purpose and why. It may be also helpful to think about which parts of the Code of Conduct you would most like to change if you could.

We are also interested to hear your feedback on:

* How the Code of Conduct is presented, including whether you think the outcomes set out are correct;
* How the Code is structured; and
* How easy you find the Code to use.

**Areas of practice**

1. **If applicable, please describe the key controls that are in place for public access instructions.**

*Relevant rules and guidance*

The following outcomes are listed in the BSB Handbook:

oC30: Barristers undertaking public access work have the necessary skills and experience required to work on that basis.

oC31: Barristers undertaking public access work maintain appropriate records of such work.

oC32: Clients only instruct via public access when it is in their interests to do so and they fully understand what is expected of them.

The public access rules are set out in rC119-131 of the BSB Handbook.

[Guidance](https://www.barstandardsboard.org.uk/for-barristers/bsb-handbook-and-code-guidance/code.html) is available on our website.

*Why are we asking this question?*

Your response will help us to assess how well you meet these rules.

*Guidance to assist with your response*

In your answer you should refer to:

* Training and experience (rules C120-121).
* The process that your chambers has for assessing the suitability of a client for public access work (rules C122-123).
* Information provided to the lay client (rules C125-127).
* Record keeping (rules C128-129).

1. **If applicable, what systems do you have in place to enable barristers in your chambers to conduct litigation?**

*Relevant rules and guidance*

Rule S47 requires that the relevant administrative systems and procedural knowledge must be in place to provide legal services direct to clients and to administer the conduct of litigation competently.

*Why are we asking this question?*

Your response will help us to assess how well you meet rule S47.

*Guidance to assist with your response*

In your response you should consider electronic systems you have in place and the broader administrative support and training available to members of chambers and staff who are involved in the conduct of litigation.

1. **Do any of your barristers undertake or supervise claims management activities in relation to:**
2. **Personal injury (yes/no);**
3. **Financial products and services** **(yes/no);**
4. **Housing disrepair (yes/no);**
5. **Industrial injuries benefits (yes/no);**
6. **Criminal injury (yes/no); and**
7. **Employment (yes/no).**

*Relevant rules and guidance*

Regulated claims management activity, ie activity that is normally regulated by the Financial Conduct Authority (FCA), is specified in articles [89G to 89M of the Financial Services and Markets Act 2000 (Claims Management Activity) Order 2018](http://www.legislation.gov.uk/uksi/2018/1253/pdfs/uksi_20181253_en.pdf#page=9%22). This is also set out on the [FCA’s website](https://www.handbook.fca.org.uk/handbook/glossary/G3567r.html). Under [article 89N](http://www.legislation.gov.uk/uksi/2018/1253/pdfs/uksi_20181253_en.pdf#page=9" ), a legal practitioner (including a barrister or BSB entity) is exempted from the requirement to be authorised and regulated by the FCA to carry out any of the regulated claims management activity.

Section 89N(1)(c) extends the legal practitioner exclusion to individuals who are employed by the legal practitioner and are working under the direction or supervision of a legal practitioner.

*Why are we asking this question?*

The [Financial Guidance and Claims Act 2018](http://www.legislation.gov.uk/ukpga/2018/10/contents/enacted) requires the SRA and the Financial Conduct Authority (FCA) to make rules imposing a permanent fee cap which must apply to all claims management agreements and claims management activities relating to financial products or services. The SRA and the FCA also have the power to extend this fee cap to other claims management activities.

The Act also gives us the power to impose a permanent fee cap but, unlike the SRA and the FCA, we are not required to do so.

Your answer to this question will provide us with information about the extent to which barristers engage in claims management activity and therefore inform our regulatory response, if any.

*Guidance to assist with your response*

Claims management activities include:

* seeking out, referrals and identification of claims or potential claims; and
* advice, investigation or representation of claims and the investigation of claims.

We may contact those who have answered “yes”, to request more detail about what type of activity they engage in, but for the moment, a “yes” or “no” response is sufficient.

1. **If barristers in your chambers have declared that they do work that falls within the scope of the Money Laundering Regulations, please explain the type of activity that they engage in/services that they provide.**

*Relevant rules and guidance*

Rule rS59.7 in the BSB Handbook requires barristers to declare at Authorisation to Practise whether they do work within the scope of the [Money Laundering Regulations](https://www.legislation.gov.uk/uksi/2017/692/contents/made) as [amended](http://www.legislation.gov.uk/uksi/2019/1511/contents/made) (MLRs).

Regulations [11](https://www.legislation.gov.uk/uksi/2017/692/regulation/11/made) and [12](https://www.legislation.gov.uk/uksi/2017/692/regulation/12/made) as [amended](http://www.legislation.gov.uk/uksi/2019/1511/contents/made) set out the types of work that engage the MLRs:

* It does NOT include contentious litigation. Contentious litigation engaged on a public access basis is therefore out of scope of the MLRs.
* It DOES include the following:
* Tax advisers.
* Participating in financial or real property transactions by assisting in the planning or execution of the transaction or otherwise acting for or on behalf of a client in the transaction: (a) the buying and selling of real property or business entities; (b) the managing of client money, securities or other assets; (c) the opening or management of bank, savings or securities accounts; (d) the organisation of contributions necessary for the creation, operation or management of companies; or (e) the creation, operation or management of trusts, companies, foundations or similar structures.
* Acting as a Trust or Company Service Provider.

The full definitions and guidance can be found in the following documents, which are on our [website](https://www.barstandardsboard.org.uk/regulatory-requirements/anti-money-laundering-and-counter-terrorist-financing/):

* Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (Regulations 11 and 12).
* FAQs for declaration at Authorisation to Practise.
* Joint Legal Sector Guidance (approved by HM Treasury)
* Bar Council guidance for the Bar (this does not have any regulatory status but is provided by the Bar Council to support its members in complying with the MLRs)

*Why are we asking this question?*

Rule rS59.7 helps us to meet our obligations under the Money Laundering Regulations to carry out risk-based supervision ([Regulation 17](https://www.legislation.gov.uk/uksi/2017/692/regulation/17/made)) as it helps us to identify which barristers are carrying out relevant work.

We are aware that many barristers are not making accurate declarations, so we want to ensure that the information we hold is accurate.

[Regulation 17](http://www.legislation.gov.uk/uksi/2017/692/regulation/17/made) requires us to identify and assess the international and domestic risks of money laundering and terrorist financing to which relevant persons (barristers or BSB entities) are subject. We must develop and record in writing risk profiles for each relevant person. If relevant persons share similar characteristics and risks, we can treat them as a “cluster”. The information that you provide will be used to inform our assessment of risk in the Bar in England and Wales. This, in turn, will be used to inform the National Risk Assessment.

We are required to submit annual reports on our Anti-Money Laundering (AML) supervision activities to HM Treasury and are subject to supervision by the [Office for Professional Body AML Supervision](https://www.fca.org.uk/opbas) (OPBAS), which is the oversight regulator for Professional Body Supervisors under the MLRs.

The Government’s mission is to make the UK a hostile environment for money laundering. The [National Risk Assessment](https://www.gov.uk/government/publications/national-risk-assessment-of-money-laundering-and-terrorist-financing-2017) assesses there to be a high risk associated with abuse of legal services by money laundering.

*Guidance to assist with your response*

You do not need to answer this question if:

* Barristers in your chambers who declared that they act as Trust or Company Service Providers (TCSPs) have already completed our full TCSP questionnaire and no other barristers conduct work that engages the MLRs.
* Your chambers has already completed our full questionnaire for tax advisers.
* No barristers in your chambers declared that they carry out work that engages the MLRs, unless you believe this was incorrect (in which case please tell us).
* Barristers in your chambers declared that they carry out work that engages the MLRs, but on reflection you believe this was incorrect (in which case please tell us).

In answering this question, you may need to consult with barristers about the declaration that they made at Authorisation to Practise.

So, if barristers in your chambers declared that they carry out work that that engages the MLRs, please tell us the following:

* Does Chambers have oversight of declarations that barristers make under rule rS59.7 of the BSB Handbook? Has your chambers checked that barristers made an accurate declaration or supported them to do so?
* With reference to the above definitions, the type(s) of activity that they engage in/services that they provide.
* For each category of activity that you report, give an indication of the scale of work that chambers as a whole does, with reference to the number of clients, annual fee income, the number of transactions annually and/or any other measure you think is relevant, depending on the nature of the activity.
* Are any of these services offered outside England and Wales? If so, please list which jurisdictions your barristers are active in.
* A breakdown of the type of clients that make up most of the relevant instructions.
* A breakdown of the source of the relevant instructions.

Depending on the type and volume of work that your chambers does, we may contact you for further information about your policies and procedures that help your barristers to comply with their obligations under the MLRs.

If you need help answering this question, please email [aml@barstandardsboard.org.uk](mailto:aml@barstandardsboard.org.uk)

**Equality, diversity and inclusion**

1. **Please explain how your chambers creates an inclusive working environment.**

*Relevant rules and guidance*

The equality rules are set out in rC110-112 of the Handbook. The BSB has also published supporting Information on the Equality Rules for [chambers](https://www.barstandardsboard.org.uk/uploads/assets/bea4dc04-7acd-49a8-98a23a4d345f644d/eca482e2-84ed-4bf3-bb73abca80af6f69/Supporting-Info-Chambers.pdf) and [authorised bodies](https://www.barstandardsboard.org.uk/uploads/assets/495f690f-1918-429a-9235df38354fb21b/2cf316d7-f957-43d5-ba20caf2c36147a9/02020402-Supporting-Information-for-BSB-Authorised-Bodies-BSB-Handbook-Equality-Rules.pdf).

*Why are we asking this question?*

In our [Strategic Plan](https://www.barstandardsboard.org.uk/uploads/assets/4b599307-da48-4e4e-a8e2ff3bf83934bd/bsbstrategicplan2019-22.pdf), aim 2 is about encouraging an independent, strong, diverse and

effective legal profession. There is growing understanding of the potential impact that the

culture of the Bar may have on opportunities for barristers to develop and make progress in their careers.

We are asking this question to gauge how your chambers works to develop an understanding of its culture and improve it.

*Guidance to assist with your response*

An inclusive culture involves the full and successful integration of diverse people into a workplace. While it encompasses a commitment to workplace diversity, it is not limited simply to basic representation. It indicates a climate in which respect, equity, anti-discrimination and positive recognition of differences are all cultivated. It reflects an active effort to advance the recruitment, progression and retention of underrepresented groups through robust action planning.

When answering this question, you should refer to both barristers and staff. You may wish to refer to:

* activity to promote opportunities to aspiring or practising barristers from underrepresented groups (whether at the Bar in general or specific to your chambers);
* using feedback to shape chambers’ culture (e.g. holding exit interviews with barristers or staff who leave chambers);
* creating diversity networks within chambers or partnering with external diversity networks;
* equality and diversity training and the impact that has had;
* how leaders within chambers actively promote an inclusive culture.

We also want to know:

* how you ensure that the Equality and Diversity Officer has sufficient capacity, capability and influence in chambers; and
* what barriers you have faced when creating an inclusive working environment, if any.

1. **How are you working towards embedding a culture which does not tolerate discrimination, victimisation, harassment and bullying?**

*Relevant rules and guidance*

The equality rules are set out in rC110-112 of the Handbook. The BSB has also published supporting Information on the Equality Rules for [chambers](https://www.barstandardsboard.org.uk/uploads/assets/bea4dc04-7acd-49a8-98a23a4d345f644d/eca482e2-84ed-4bf3-bb73abca80af6f69/Supporting-Info-Chambers.pdf) and [authorised bodies](https://www.barstandardsboard.org.uk/uploads/assets/495f690f-1918-429a-9235df38354fb21b/2cf316d7-f957-43d5-ba20caf2c36147a9/02020402-Supporting-Information-for-BSB-Authorised-Bodies-BSB-Handbook-Equality-Rules.pdf).

*Why are we asking this question?*

In our [Strategic Plan](https://www.barstandardsboard.org.uk/uploads/assets/4b599307-da48-4e4e-a8e2ff3bf83934bd/bsbstrategicplan2019-22.pdf), aim 2 is about encouraging an independent, strong, diverse and

effective legal profession. As we said in the plan, there is compelling evidence that discrimination and harassment are a problem for many in practice. There is growing understanding of the potential negative impact that the culture of the Bar may have on opportunities for barristers to develop and make progress in their careers.

Your response to this question will inform our review of the equality rules (rC110-112) in the BSB Handbook, and our review of our approach to dealing with allegations of bullying, discrimination and harassment, which are priorities in our current [business plan](https://www.barstandardsboard.org.uk/uploads/assets/3a76b28b-997e-48bb-85fdc92ec207c7c1/BSB-Business-Plan-2020-21-FINAL.pdf).

Your response will also enable us to assess the impact and effectiveness of your policies in these areas.

*Guidance to assist with your response*

You may recall that our Director General wrote to Heads of Chambers in July 2016, setting out the questions that you should consider when reviewing your equality policies. These questions were grouped as follows, which provides a useful structure for answering this question:

* Awareness raising: how have you ensured that all members of chambers and staff are aware of chambers’ equality policies and procedures?
* Implementation: how do you ensure that your policies are applied in practice?
* Measurement: how do you review and monitor the impact of your equality policies and action plans?

1. **Describe your process for handling reports of bullying, discrimination or harassment.**

*Relevant rules and guidance*

The equality rules are set out in rC110-112 of the Handbook. Rule C110.j of the BSB Handbook requires that you have a written anti-harassment policy in place.

We have published supporting Information on the Equality Rules for [chambers](https://www.barstandardsboard.org.uk/uploads/assets/bea4dc04-7acd-49a8-98a23a4d345f644d/eca482e2-84ed-4bf3-bb73abca80af6f69/Supporting-Info-Chambers.pdf) and [authorised bodies](https://www.barstandardsboard.org.uk/uploads/assets/495f690f-1918-429a-9235df38354fb21b/2cf316d7-f957-43d5-ba20caf2c36147a9/02020402-Supporting-Information-for-BSB-Authorised-Bodies-BSB-Handbook-Equality-Rules.pdf).

Rule C65 and associated guidance says that you must report promptly to the BSB if you have committed serious misconduct, which includes harassment.

Rules C66-68 set out the requirement to report the serious misconduct of others.

We have also published the following guidance:

* [Pilot Harassment Support Schemes Waiver](https://www.barstandardsboard.org.uk/uploads/assets/dbbdd80a-4686-4a1a-922a3c3fc8a11f19/Pilot-Harassment-Support-Schemes-Waivers.pdf)
* [Reporting Serious Misconduct of Others](https://www.barstandardsboard.org.uk/uploads/assets/1e61994f-c558-430b-9c7b7034081df4b7/Reporting-Serious-Misconduct-of-Others.pdf)

*Why are we asking this question?*

In our [Strategic Plan](https://www.barstandardsboard.org.uk/uploads/assets/4b599307-da48-4e4e-a8e2ff3bf83934bd/bsbstrategicplan2019-22.pdf), aim 2 is about encouraging an independent, strong, diverse and

effective legal profession. As we said in the plan, there is compelling evidence that discrimination and harassment are a problem for many in practice.

Your response to this question, in conjunction with the responses from others, will inform our review of the equality rules (rC110-112) in the BSB Handbook, and our review of our approach to dealing with allegations of bullying and harassment, which are priorities in our current [business plan](https://www.barstandardsboard.org.uk/uploads/assets/3a76b28b-997e-48bb-85fdc92ec207c7c1/BSB-Business-Plan-2020-21-FINAL.pdf).

*Guidance to assist with your response*

Your response should include information about the following:

* A description of your policy and process for handling reports of harassment or bullying.
* The documentation that you have in place relating to your policy and process for handling such reports.
* The individuals/roles that are involved when a report of harassment or bullying is received.
* Whether your chambers provides any training or other form of support to those who are tasked with handling/investigating reports of harassment and bullying.
* What, if any, support systems are in place to assist with reporting harassment or bullying internally under your chambers policy and to the BSB under rC65 and 66 of the BSB Handbook?
* Whether you have received any reports of harassment or bullying in the past 3 years. If you have, please tell us what the outcome was.

1. **How have you used your chambers’ diversity data to positively influence your approach to equality and diversity and the culture of your chambers?**

*Relevant rules and guidance*

Rules c110.3.p to t of the BSB Handbook set out the requirements for the collection and publication of diversity data.

Rule C110.3.r requires the publication of diversity data every three years. It is now more than six years since the first set of data should have been published in 2012, so chambers should have published three sets of diversity data in total.

We have published supporting Information on the Equality Rules for [chambers](https://www.barstandardsboard.org.uk/uploads/assets/bea4dc04-7acd-49a8-98a23a4d345f644d/eca482e2-84ed-4bf3-bb73abca80af6f69/Supporting-Info-Chambers.pdf) and [authorised bodies](https://www.barstandardsboard.org.uk/uploads/assets/495f690f-1918-429a-9235df38354fb21b/2cf316d7-f957-43d5-ba20caf2c36147a9/02020402-Supporting-Information-for-BSB-Authorised-Bodies-BSB-Handbook-Equality-Rules.pdf).

*Why are we asking this question?*

In our [Strategic Plan](https://www.barstandardsboard.org.uk/uploads/assets/4b599307-da48-4e4e-a8e2ff3bf83934bd/bsbstrategicplan2019-22.pdf), aim 2 is about encouraging an independent, strong, diverse and

effective legal profession. Your response to this question, in conjunction with others, will inform our review of the equality rules (rC110-112) in the BSB Handbook.

Your response will also tell us if you are complying with rC110.3.r, which requires the publication of diversity data every three years.

*Guidance to assist with your response*

We want to know how you have used your chambers’ diversity data to positively influence your approach to equality and diversity and the culture of your chambers. This might include:

* the creation and updating of robust equality and diversity action plans;
* steps to identify and address the barriers faced by groups that are underrepresented in your chambers, at all levels of seniority;
* engagement with internal and/or external diversity networks; and
* implementing best practice in areas such as recruitment and the allocation of work.

We particularly want to know the impact that your actions have had.

In January 2020 we conducted a spot check of chambers’ websites. We identified gaps in compliance with the requirement for chambers to monitor and publish aggregated data about the diversity of their workforce every three years so, in July, we wrote to all chambers to remind them of their obligation to comply. We said that we expected all chambers to be compliant by the time the Regulatory Return was issued. We will check your website (where relevant) so if your chambers is not compliant with this requirement, you should explain any reasons and tell us when you expect to be compliant.

1. **How does your chambers support its members during, or when they return from, career breaks or periods of reduced or flexible working?**

*Relevant rules and guidance*

Rule C110.l of the BSB Handbook states that chambers and BSB entities must have a flexible working policy in place. The policy should cover the right of a member of chambers, manager or employee (as the case may be) to take a career break, to work part-time, to work flexible hours, or to work from home, so as to enable them to manage their family responsibilities or disability without giving up work.

We have published supporting Information on the Equality Rules for [chambers](https://www.barstandardsboard.org.uk/uploads/assets/bea4dc04-7acd-49a8-98a23a4d345f644d/eca482e2-84ed-4bf3-bb73abca80af6f69/Supporting-Info-Chambers.pdf) and [authorised bodies](https://www.barstandardsboard.org.uk/uploads/assets/495f690f-1918-429a-9235df38354fb21b/2cf316d7-f957-43d5-ba20caf2c36147a9/02020402-Supporting-Information-for-BSB-Authorised-Bodies-BSB-Handbook-Equality-Rules.pdf).

*Why are we asking this question?*

Your response to these questions will inform our review of the Equality rules (C110-112) in the BSB Handbook

31.3% of the self-employed barristers responding to our [Women at the Bar survey](https://www.barstandardsboard.org.uk/uploads/assets/14d46f77-a7cb-4880-8230f7a763649d2c/womenatthebar-fullreport-final120716.pdf) were not aware if their chambers had a flexible working policy and 10.2% responded that their chambers did not have such a policy.

Whilst the majority of those who had worked flexibly felt it had helped them to remain at the Bar, they were far less positive about the impact on their career progression. Three fifths of those who had experience of flexible working felt it had negatively impacted on their practice, with an impact on work allocation or progression the most common issues.

*Guidance to assist with your response*

In your answer, you should tell us if you have a flexible working policy in place and refer to how you ensure:

* Members of chambers are aware of the policy;
* Members are not disadvantaged;
* Members’ wellbeing is not negatively impacted; and
* All members of chambers are treated fairly and equally.

1. **How have you identified and addressed the impact of COVID-19 on people with particular diversity characteristics in your chambers?**

*Relevant rules and guidance*

Rules c110.3.e to g of the BSB Handbook set out the requirements for the regular review of your policy on equality and diversity and its implementation in order to ensure that it complies with Rule rC110.

We have published supporting Information on the Equality Rules for [chambers](https://www.barstandardsboard.org.uk/uploads/assets/bea4dc04-7acd-49a8-98a23a4d345f644d/eca482e2-84ed-4bf3-bb73abca80af6f69/Supporting-Info-Chambers.pdf) and [authorised bodies](https://www.barstandardsboard.org.uk/uploads/assets/495f690f-1918-429a-9235df38354fb21b/2cf316d7-f957-43d5-ba20caf2c36147a9/02020402-Supporting-Information-for-BSB-Authorised-Bodies-BSB-Handbook-Equality-Rules.pdf).

*Why are we asking this question?*

COVID-19 has presented specific challenges for chambers and individual barristers. Barristers with particular diversity characteristics may have faced additional challenges, which may include challenges relating to their wellbeing.

We are asking this question to collect evidence about these challenges and how chambers have responded to them. That evidence will be used to inform our approach to regulating equality and diversity issues at the Bar, including wellbeing.

Your answer to this question may include, but is not limited to:

* Engagement activity within your chambers, to identify the impact of COVID-19 on individuals or groups (eg. surveys).
* The policies and procedures your chambers has in place to address issues of wellbeing.
* Examples of any measures you have implemented to support individual members or specific groups (eg. people with caring responsibilities and very junior members of chambers). These measures could relate to flexible working, means of communication (eg. guidance for clerks and practice managers about how and when to contact specific individuals), mentoring or “buddy” arrangements, measures to ensure that specific groups in chambers are supported to maintain their practice at an appropriate level and temporary financial relief for members of chambers who may be struggling financially as a result of the impact of COVID-19.

1. **How do you ensure that unnamed work that comes into your chambers is allocated fairly and, more broadly, that work is fairly distributed among pupil barristers and members of chambers?**

*Relevant rules and guidance*

Rule C110.f.iii of the BSB Handbook requires chambers to monitor the allocation of unassigned work. Rule C112 of the Handbook states that the definition of “allocation of unassigned work” includes, but is not limited to work allocated to pupils, barristers of fewer than four years’ standing and barristers returning from parental leave.

Rule C110.3.i of the BSB Handbook requires chambers to be conducted in a way which is fair and equitable for all members of chambers, pupils and/or employees (as appropriate). This includes, but is not limited to, the fair distribution of work opportunities.

We have published supporting [Information on the Equality Rules](https://www.barstandardsboard.org.uk/uploads/assets/bea4dc04-7acd-49a8-98a23a4d345f644d/eca482e2-84ed-4bf3-bb73abca80af6f69/Supporting-Info-Chambers.pdf) for chambers. Work is unassigned if, at the point of being sent to chambers, the instructing person does not state that it is to be assigned to a named individual. Work is assigned if the instructing person states that it is to be given to a named individual.

*Why are we asking this question?*

Your response to this question will inform our review of the equality rules (C110-112) in the BSB Handbook.

In our [Women at the Bar report](https://www.barstandardsboard.org.uk/uploads/assets/14d46f77-a7cb-4880-8230f7a763649d2c/womenatthebar-fullreport-final120716.pdf) we said that “awareness of work allocation monitoring appears low.” For example, more than half of respondents to the survey were not aware whether their chambers monitored work allocation.

Additional issues highlighted in relation to the fair allocation of work included:

* That effective monitoring of work allocation was difficult to implement;
* That some chambers had a lack of transparency about how work allocation was monitored, and that work was allocated unfairly and subject to factors such as favouritism;
* Taking maternity/ paternity leave was seen by some as having had a negative impact on work allocation.

*Guidance to assist with your response*

In your response, you should describe:

* the policies and processes for allocating unassigned work;
* how the allocation of unassigned work is monitored;
* who is responsible for monitoring the allocation of unassigned work;
* what information is given to members of chambers in relation to the allocation and distribution of work;
* how you act on the information that you collect, i.e. the practical impact of monitoring activity;
* any policies and processes for ensuring that assigned work is assigned for fair and non-discriminatory reasons, and for ensuring the fair distribution of opportunities for future assigned work (eg. networking events, publications and speaking engagements). Assigned work may have an internal source (eg. a QC instructing a junior barrister to be led on a case) or an external source (eg. a law firm instructing a specific barrister).