

BAR  
STANDARDS  
BOARD

REGULATING BARRISTERS

**Future Bar Training**

**The Professional Statement for Barristers**

**Consultation on Threshold Standard and Competences**

**Introduction**

1. This consultation paper is an essential component of the Future Bar Training (FBT) programme.
2. FBT is our programme for change in education and training. We hope that by changing how we regulate, we can:
  - make education and training for the Bar more consistent, innovative and flexible;
  - remove unnecessary barriers to entry to the profession, including bringing down the cost of training.
3. In October 2015 we published a [Professional Statement](#) which describes the knowledge, skills and attributes that all barristers should have on 'day one' of practice (i.e. upon the issue of a full qualification certificate, on which basis they may apply for a full practising certificate). The Professional Statement provides:
  - a. a clear and objective point of reference for the regulation of training for the Bar and the development of training pathways;
  - b. a baseline for more detailed training specifications, education standards and establishing routes to authorisation;
  - c. a starting point for development of a threshold standard and competences.
4. The purpose of this consultation is to seek views on the draft threshold standard and competences. A summary of the relationship between these and the Professional Statement is attached in [Annex 1](#). The drafts for consultation are attached in [Annex 2](#).
5. The threshold standard and competences have been developed to elaborate on the Professional Statement and clearly demonstrate the abilities and standards required for any barrister on 'day one' of practice.
6. We have developed the threshold standard and competences to meet the needs of our regulated community and its consumers. We have worked with the Solicitors Regulation Authority to ensure consistency of requirements between the two professions where our

training intersects, and particularly in relation to the academic stage, where divergent competences could make a coordinated approach unworkable.

7. This consultation document describes how we have developed the draft threshold standard and competences and invites comments on them.

### **Equality impact assessment**

8. We have undertaken an initial screening of the function of the Professional Statement threshold standards and competences and did not identify any potentially significant adverse impacts.

### **The Professional Statement, threshold standard and competences**

#### What is the Professional Statement?

9. The Professional Statement describes the knowledge, skills and attributes that all barristers should have on 'day one' of practice.
10. The statement was the subject of a full consultation exercise prior to the adoption of the definitive Professional Statement for Barristers by the Board and its publication in October 2015. No further comments are invited on it.

#### What are the competences?

11. Competences have been defined for each knowledge, skill and attribute contained in the Professional Statement. Barristers must demonstrate all the competences in order to evidence that they have the knowledge, skills and attributes specified in the Professional Statement.
12. The competences must be sufficiently comprehensive to encapsulate the breadth of the requirements of barristers on 'day one' of practice. They must be concise, assessable and suitable to act as an umbrella for training pathways and learning outcomes to be developed and used by educators, training organisations and pupil supervisors.
13. We have not set out a full specification of the knowledge requirements in this document (i.e. a syllabus). We will address these requirements separately.

#### What is the threshold standard?

14. The threshold standard is the minimum standard to which the competences must be performed on 'day one' of practice. Newly qualified barristers will aspire to higher standards but must meet the minimum standard.
15. Standards are also incorporated within the competences, and therefore the threshold standard and the competences must be read together.
16. It is important that the threshold standard is set at the right level for barristers on 'day one' of practice. The threshold standard must protect clients, preserve the trust and confidence which the public places in the profession and facilitate the administration of justice, whilst recognising that a newly-authorized barrister cannot be expected to work at the same level as one who has practised for some years. The LSB's *Statutory Guidance on Education and Training* requires that regulators set standards that "find

the right balance between what is required at the point of authorisation and what can be fulfilled through ongoing competency requirements”.

### Who are the Professional Statement, threshold standard and competences for?

17. **The Bar Standards Board:** They will assist us in maintaining standards of both those entering practice and those providing education and training. They will inform the development of alternative pathways to qualifications and the assessments we control.
18. **Those involved in the design and delivery of education and training for the Bar:** They will be used to inform the development of education and training materials and pathways.
19. **Aspiring barristers:** Clearly understanding the competences that must be achieved in order to be authorised will help aspiring barristers make informed decisions about their future development.
20. **Practising barristers:** The Professional Statement, threshold standard and competences describe the essential knowledge, skills and attributes that they should expect of themselves and their peers and the minimum standard that they must adhere to. They do not replace the *Code of Conduct*, and all barristers must continue to comply with the regulations set out in the *BSB Handbook*, which will remain the sole reference point for disciplinary matters.
21. **Consumers:** The Professional Statement, threshold standard and competences may be used to inform an understanding of the barrister’s role and the service a consumer can expect to receive. Complaints will continue to be dealt with under the *Code of Conduct* or the Legal Ombudsman.

### Terminology

22. The threshold standard and competences have been written in such a way as to achieve a balance between that which is understandable and usable, whilst also maintaining a reasonable level of detail.

### The evidence base for the threshold standard and competences

23. Standards for the profession are currently found in a number of our documents including:
  - a. the BPTC Handbook;
  - b. the BSB Handbook;
  - c. the Pupillage Handbook;
  - d. QASA Handbook.

These existing standards were ‘mapped’ to the Professional Statement and used in the development of the threshold standard and competences.

24. The threshold standard and competences were developed by two legal academics with extensive experience in both the academic and vocational stage of training. The approach taken was to develop a set of competences to sit beneath each knowledge,

skill and attribute defined in the Professional Statement and a single threshold standard that would apply to all competences.

25. The threshold standard and competences were developed by reference to:
- a. existing standards (as highlighted in the mapping document referred to above);
  - b. responses to the original consultation on the Professional Statement;
  - c. the Solicitors Regulation Authority *Statement of solicitor competence* (in order to ensure that there is consistency between the two professional regulatory bodies where that is appropriate);
  - d. various other professional statements including the medical profession, civil servants and legal executives.
26. The draft threshold standard and competences have been reviewed by a consultative group of barristers, including one with senior level experience in vocational training. The draft threshold standards and competences have also been reviewed by our Education and Training Committee.

Their feedback has been used to test the basic approach, terminology, the validity of the competences, appropriateness of the standard and overall usefulness and clarity. Amendments were made on the basis of their responses.

### Structure

27. The diagram in Annex 1 explains the terminology used and the relationships between the various elements of the Professional Statement and the newly drafted threshold standard and competences (by reference to examples).
28. The draft threshold standard and competences are in Annex 2. They are contained in boxes within the Professional Statement.

### **Consultation questions**

#### **Question 1**

Are there any competences missing?

#### **Question 2**

Is the scope of each knowledge, skill and attribute sufficiently captured by its corresponding competences?

#### **Question 3**

Do the competences contain the appropriate level of detail?

#### **Question 4**

Have the competences been drafted sufficiently widely to enable educators, training organisations and pupil supervisors to design training and develop more detailed

outcomes and assessment criteria?

**Question 5**

Do the standards in the threshold standard and competences when read together reflect what would be expected of a barrister on 'day one' of practice?

**Question 6**

Will the threshold standard and competences be a useful tool to help educators, training organisations, pupil supervisors, prospective barristers and consumers understand the required competences of a barrister on 'day one' of practice?

**Question 7**

Do the threshold standard and competences strike the right balance between the broad qualification which our research tells us is encompassed by the title barrister, and the degree of focus which comes in time with practice in a particular area?

**Question 8**

Have we articulated sufficiently the distinction between (a) the *Professional Statement Threshold Standard and Competences* (in particular its use for education and training) and (b) the role of the *BSB Handbook and Code of Conduct* (in defining how a barrister must conduct themselves throughout their career)?

**Question 9**

Are you aware of any impacts on equality and diversity, either positive or negative, which might result from using the threshold standard and competences as a tool to assist our regulatory activities? If yes, what are these?

**Question 10**

Do you have any other comments? If yes, what are they?

**PLEASE GIVE REASONED ANSWERS IN YOUR RESPONSES**

**Further steps following the consultation**

30. After this consultation we will:

- a. analyse and address your feedback;
- b. address the knowledge requirements referred to at paragraph 13 above;
- c. develop an assessment strategy;
- d. undertake a full equality impact assessment for the threshold standard, competences and assessment strategy.

## How to respond

31. We welcome feedback on everything we do as a regulator. There are many ways in which we engage with the public and the profession, from open meetings to webinars and social media. Our website always has up-to-date information about these opportunities. To share your views on this consultation, please contact us in the following ways:

**Online**, by visiting:

<https://www.surveymonkey.co.uk/r/PSThresholdStandards>

**By email\***, to

[futurebartraining@barstandardsboard.org.uk](mailto:futurebartraining@barstandardsboard.org.uk)

**By post\***, to:

Future Bar Training – Professional Statement consultation  
The Bar Standards Board  
C/O Hannah Wilce  
289-293 High Holborn  
London  
WC1V 7HZ

\* With postal and email responses, please state:

- your name or the name of the person on whose behalf you are responding (unless you wish to respond anonymously);
- your role (e.g. barrister, consumer, legal academic);
- your location;
- if you wish for us to treat any part or aspect of your response as confidential.

## Responsible officer

32. The officer responsible for this work at the BSB is Hannah Wilce. Please return your responses, or direct any questions, to [futurebartraining@barstandardsboard.org.uk](mailto:futurebartraining@barstandardsboard.org.uk).

## Deadline

33. Please submit your response by 5 June 2016.

## Confidentiality

34. We may publish a list of respondents to the consultation. Please state clearly if you do not wish your name and/or response to be published. Although we may not publish all individual responses, it is our policy to comply with all Freedom of Information requests.

## Our consultants and advisors

35. Our consultants are Jane Chapman and Carol Wadsworth-Jones; their work was informed by a consultative group of barristers: Rebecca Foulkes, Samantha Pullin, Paul Mertens and Deveral Capps.
36. Jane qualified as a solicitor and joined the College of Law (now the University of Law)

in 1985. In 2000 she became an Associate Professor and Director of Academic Programmes. In 2003 Jane was appointed to the Board of Management of the College of Law; as Board Member Operations she had over-arching responsibility for all programmes. In 2012 Jane was appointed Vice President (Academic Governance, Quality and Standards), Chair of the Academic Board, a member of the Academic Standards Committee and a member of the executive management team. Jane was responsible for quality assurance and standards of the academic and professional programmes (including the BPTC). She left the University to pursue consultancy work in professional legal education. Jane holds a BA in Law.

37. Carol qualified as a solicitor in 1979, practised until 1988 then entered Higher Education. She was latterly Associate Professor and the Director of Programmes at the College of Law (now University of Law) responsible for the delivery of all programmes (including the BPTC) across the University. She has edited sections of Halsbury's Laws, and sat on the SRA's Education and Training Committee and various accreditation panels. She is a member of the Society of Legal Scholars and a fellow of the Higher Education Academy. She now consults independently. Carol holds a BA in Law and French.

## ANNEX 1:

### Relationship between the Professional Statement, Threshold Standard and Competences

	Terminology	Explanation	Example
PROFESSIONAL STATEMENT	Knowledge Skills and Attributes	<p>The knowledge, skills and attributes are grouped under four domains:</p> <ol style="list-style-type: none"> <li>1. Barristers' distinctive characteristics;</li> <li>2. Personal values and standards;</li> <li>3. Working with others;</li> <li>4. Management of practice.</li> </ol> <p>Barristers will have all the knowledge, skills and attributes on 'day one' of practice.</p>	2.2 Be honest in their dealings with others.
	Commentary	A set of explanatory notes on the knowledge, skills and attributes to be used for guidance only	They will ensure that they do not communicate in any way anything that they know or ought to know is untrue, incomplete, inaccurate, or likely to be misleading.
THRESHOLD STANDARD AND COMPETENCES	Competences	<p>Ability to perform the roles and tasks required by one's job to the expected standard.</p> <p>Competences have been defined for each knowledge, skill and attribute. Barristers must demonstrate all the competences in order to evidence that they have the knowledge, skills and attributes specified in the Professional Statement.</p> <p>Competences are assessable.</p>	<p>Barristers must:</p> <ol style="list-style-type: none"> <li>a) Comply with regulatory requirements set down by the Bar Standards Board, including the Code of Conduct [1.16];</li> <li>b) Ensure that they are honest about the limits of their knowledge, their experience, qualifications and professional status;</li> <li>c) Ensure that any information they give is accurate, true, complete and not likely to mislead.</li> </ol>
	Threshold Standard	<p>The threshold standard is the minimum standard to which the competences must be performed on 'day one' of practice. Newly qualified barristers will aspire to higher standards but must meet the minimum standard.</p> <p>Standards are also incorporated within the competences: the threshold standard and competences must be read together.</p> <p>The draft threshold standard is set out in Annex 2.</p>	

## **ANNEX 2: The Professional Statement threshold standard and competences**

### **Threshold standard**

The Professional Statement describes the knowledge, skills and attributes that all barristers should have on 'day one' of practice (i.e. upon the issue of a full qualification certificate, on which basis they may apply for a full practising certificate).

Competences are defined for each knowledge, skill and attribute. Barristers must demonstrate all competences in order to evidence that they have the knowledge, skills and attributes specified in the Professional Statement.

The statement below describes the minimum level or standard to which the competences must be performed. Standards are also incorporated within the competences: the threshold standard and the competences must be read together. Newly qualified barristers will aspire to higher standards, but must meet the minimum standard.

On 'day one' of practice, barristers cannot be expected to demonstrate the level of excellence that might be expected of a barrister of some years standing. Newly qualified barristers must:

- a) always perform at an acceptable standard, that is the standard of performance must be at least satisfactory (fit for purpose though not necessarily outstanding or perfect);
- b) perform within a reasonable timeframe (a reasonable timeframe for a newly qualified barrister may be longer than it is for an experienced barrister);
- c) be able to deal with straightforward or uncomplicated or familiar work unaided;
- d) recognise and ask for support when it is needed in order to complete more complex or complicated or unfamiliar work.

### **Competences**

The competences have been devised from existing standards articulated in the BSB Handbook and other established sources. The competences are identified by a box underneath the knowledge, skills and attributes, and commentaries, which have previously been defined in the Professional Statement (preceded by the words 'Barristers must'). Where there is a cross-reference in square brackets, the intention is to incorporate all the competences under that knowledge, skill or attribute.

## **1. Barristers' distinctive characteristics**

### **Legal knowledge, skills and attributes**

Barristers will:

#### **1.1 Uphold the reputation of the Bar and observe their duty to the court in the administration of justice.**

They will recognise and abide by their paramount duty in this regard including where this may require them to act against their own or their client's best interests.

Barristers must:

- a) Thoroughly recall and comprehend the Core Duties and their interrelationship.
- b) Ensure that their conduct justifies their clients' and colleagues' trust in them and the public's trust in the profession by:
  - (i) consistently applying the Core Duties and in particular the paramount duty to the court in the administration of justice;
  - (ii) demonstrating a thorough comprehension of the principles and values in the Professional Statement for Barristers.

#### **1.2 Have a knowledge and understanding of the key concepts and principles of public and private law.**

They will have a good understanding of the general principles of law underpinning the legal system of England and Wales, including the implications of EU law, and be able to apply this as necessary.

Barristers must:

- a) Thoroughly recall and comprehend and accurately apply to factual situations the principles of law and rules of procedure and practice prescribed by the Bar Standards Board.
- b) Be aware of significant changes to these principles and rules.

#### **1.3 Have a knowledge and understanding of the law and procedure relevant to their area(s) of practice.**

They will have a good understanding of, and be up-to-date with recent cases and developments in, the area(s) of law in which they practise. They will have a good understanding of the rules of practice and procedure operating in courts relevant to their area(s) of practice. For example, the rules relating to jurisdiction, evidence, disposals, financial orders and costs. They will understand the processes by which disputes can be resolved outside court, such as arbitration and mediation.

Barristers must:

- a) Thoroughly recall and comprehend the core law and rules of procedure and practice relevant to their area of practice.
- b) Know the legal texts, journals, materials, documents and research tools relevant to their area of practice.
- c) Accurately apply to the matters they are dealing with the law and rules of procedure and practice relevant to their area of practice.
- d) Keep their knowledge and skills in their specific area of practice up-to-date.
- e) Comprehend and be able to identify and advise clients of situations where alternative forms of dispute resolution may be appropriate to their given circumstances.

#### **1.4 Have an awareness of the wide range of organisations supporting the administration of justice.**

They will understand that the system for administration of justice comprises more than the judicial system alone and will have an awareness of the other elements wherever they are relevant to their work. They will also have an awareness of the sources of advice and funding available to clients, their additional responsibilities in cases that are not self-funded, and the implications of the same on the conduct of a case.

Barristers must:

- a) Be aware of the wide range of organisations supporting the administration of justice and their respective roles.
- b) Be able to identify and advise clients of alternative sources of advice and funding available to them.
- c) Understand the implications on the conduct of the case and the additional responsibilities owed in circumstances where the client is not self-funded.

#### **1.5 Apply effective analytical and evaluative skills to their work.**

They will identify the relevant facts of a matter and apply their legal and procedural knowledge to those facts to analyse the issues. They will acquire an understanding of their client's circumstances, needs, objectives, priorities and constraints. They will use that analysis and understanding to evaluate the available options and communicate them to their client.

Barristers must:

- a) Identify all necessary information and seek clarification of instructions using appropriate communication skills.
- b) Rigorously assess facts and evaluate key issues and risks.

- c) Analyse financial information.
- d) Recognise inconsistencies and gaps in information.
- e) Methodically evaluate the quality and reliability of the information.
- f) Use multiple sources of information to make effective judgements.
- g) Employ effective research skills [1.12].
- h) Identify relevant legal principles.
- i) Accurately apply legal principles to factual issues to devise the most appropriate solution taking into account the client's circumstances, needs, objectives, priorities and constraints.
- j) Reach reasoned decisions supported by relevant evidence.
- k) Be able to explain and justify their analysis, synthesis and evaluation.

#### 1.6 Provide clear, concise and accurate advice in writing and orally and take responsibility for it.

Advice in writing will include written opinions and advising by email. Oral advice will include conducting conferences and advising by telephone. This will also include advising on the need and preparation for trial where an earlier disposal of the case does not occur, and the ability to convey unpalatable advice where necessary.

Barristers must:

- a) When giving advice take into account the client's circumstances and objectives.
- b) Ensure that advice is informed by appropriate analysis, synthesis and evaluation and where appropriate identifies and evaluates the consequences of different options.
- c) Address and present all relevant legal and factual issues in communicating their advice.
- d) Exercise good communication skills [1.9].

#### 1.7 Negotiate effectively.

They will be able to recognise the strengths and weaknesses of the client's case and that of all other parties and to seek an outcome by negotiation which is in the best interests of the client.

Barristers must:

- a) Identify in so far as possible all parties' interests, objectives and limits.

- b) Develop and formulate best options for meeting parties' objectives.
- c) Present options for compromise cogently.
- d) Recognise, evaluate and respond to options presented by the other side.
- e) Develop appropriate compromises between the options or parties.
- f) Bring the negotiation to an appropriate conclusion depending on the outcome.

## Practical knowledge, skills and attributes

### 1.8 Exercise good English language skills.

They will have an effective command of the language and be able to use it appropriately, accurately and fluently so as to handle complex and detailed argumentation. They will use correct English grammar, spelling and punctuation.

Barristers must:

- a) Use correct vocabulary, English grammar, spelling and punctuation in all communications.
- b) Speak fluent English.

### 1.9 Exercise good communication skills, through any appropriate medium and with any audience as required in their work.

They will be able to choose the appropriate medium of communication, taking into account the message and the audience. They will be aware of and responsive to what others are communicating to them, whether in writing, verbally or non-verbally. They will be able to write with clarity and precision. They will be articulate and able to speak with fluency. They will be able to adapt their language and communication to suit their audience, which may be clients, colleagues and others, from any background.

Barristers must:

- a) Identify the audience and respond appropriately to those from diverse backgrounds and to the needs and sensitivities created by individual circumstances [3.3].
- b) Select the appropriate medium of communication taking into account the message and the audience.
- c) Adapt language and non-verbal communication taking into account the message and the audience.
- d) Use appropriate listening and questioning techniques when obtaining information.

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|----|---|
| e) | Analyse written information.  |
| f) | Request and provide clarification of meaning when appropriate.  |
| g) | Recognise and respond appropriately to communications from others (whether in writing, verbal or non-verbal). |
| h) | Exercise good English language skills [1.8].  |
| i) | Write with clarity, accuracy and precision.   |
| j) | Speak articulately and fluently.  |
| k) | Present arguments cogently and succinctly.  |
| l) | Exercise these skills appropriately in meetings and conferences (whether conducted face-to-face or remotely). |

### 1.10 Make sound judgements in their work.

They will ensure their judgements are independent, based on a good understanding of the relevant law and evaluation of relevant facts and information, and that any advice they give or decisions they make are reasoned and supported by evidence.

Barristers must:

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|----|---|
| a) | Apply effective analytical and evaluative skills to their work [1.5].                                 |
| b) | Ensure that they act independently so that their judgements are not influenced by external pressures. |
| c) | Take responsibility for their decisions.  |

### 1.11 Ensure they are fully prepared.

They will be familiar with the facts and law applicable to any matter on which they are working, as well as their client's circumstances and goals, so as to be able to supply their client with a good standard of work.

Barristers must:

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|----|---|
| a) | Ensure that they are fully prepared in order to act in the best interests of the client [3.1] and provide a competent standard of work and service to the client [CD7]. |
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### 1.12 Employ effective research skills.

Using either paper or electronic media, they will be able to recognise and identify relevant legal issues as well as recognise the need to research areas beyond the law that are relevant to their work. They will undertake any research accurately and efficiently. This will involve assessing the quality and relevance of sources,

interpreting and evaluating the results of the research and presenting those results clearly and accurately.

Barristers must:

- a) Accurately identify the legal and non-legal issues.
- b) Recognise when legal and non-legal research is required.
- c) Use appropriate methods and resources (paper, electronic or other media and/or relevant experts) and ensure that sources are up-to-date.
- d) Assess the quality and relevance of sources.
- e) Interpret and evaluate the results of the research.
- f) Apply effective analytical and evaluative skills to their work [1.5].
- g) Apply the research to the issues identified in order to draw conclusions.
- h) Evaluate and present the results clearly and accurately.

## Advocacy

### 1.13 Draft court and other legal documents which are clear, concise, accurate and written so as to reflect fairly the arguments advanced by both sides.

They will be able to draft standard court documents. For example, claim forms, statements of case, witness statements, applications, indictments, orders and appeal documents. They will be able to draft these documents in clear language which focuses on the issues relevant to the case.

Barristers must:

- a) Draft accurate and legally effective documents.
- b) Utilise precedents where appropriate and also be able to draft without them.
- c) Address all relevant legal and factual issues.
- d) Comply with appropriate formalities.
- e) Exercise good English language skills [1.8].
- f) Exercise good communication skills [1.9].

### 1.14 Draft skeleton arguments which present the relevant facts, law and arguments in a clear, concise and well-structured manner.

They will be able to draft skeleton arguments that have clarity of purpose, are of an appropriate length and which comply with any applicable rules. Their arguments will identify the issues and will cite authorities and external materials in an appropriate manner.

Barristers must:

Undertake a comprehensive case analysis applying effective analytical and evaluative skills to their work [1.5] and employ effective research skills [1.12] as appropriate.

Identify and select the pertinent information for the skeleton argument.

Draft the skeleton argument so as to be a valuable aid to oral advocacy and useful to the court by:

- (i) Presenting the information in a structured and focused manner;
- (ii) Providing a summary of the proceedings to-date;
- (iii) Relating issues to one another;
- (iv) Using appropriate citations;
- (v) Summarising in writing a reasoned argument in a clear, logical, succinct and persuasive way;
- (vi) Presenting a cogent statement of reasons for disposing of the case in the manner requested.

### 1.15 Have persuasive oral advocacy skills.

They will be able to communicate their client's case effectively. They will be able to deliver coherent, well-structured and concise submissions and cite legal authorities and materials appropriately. They will be able to engage appropriately with and maintain an awareness of others in any forum where they represent clients.

When delivering submissions and questioning witnesses, they will be able to communicate audibly, using both pace and language that are appropriate to the tribunal. They will be able to handle witnesses in accordance with the rules of the court. They will ask questions which assist the court, focus on the real issues in the case and avoid the irrelevant. They will listen to the answers and demonstrate appropriate conduct towards the witness.

Barristers must:

- a) Thoroughly recall and comprehend and accurately apply to the matters they are dealing with the law and procedure relevant to advocacy.
- b) Apply effective analytical and evaluative skills to their work [1.5].
- c) Identify strengths and weaknesses from different parties' perspectives.

- d) Prepare how they will effectively communicate the argument.
- e) Manage facts to support the argument or position.
- f) Present orally a reasoned argument in a clear, logical, succinct and persuasive way.
- g) Use and cite legal authority appropriately.
- h) Comply with all relevant formalities.
- i) Recognise the role of different types of witness and use appropriate techniques for witness handling having particular regard to vulnerable witnesses.
- j) Listen and respond effectively to questions and opposing arguments.
- k) Deploy advocacy skills efficiently and effectively in response to legitimate pressures and/or short notice.

## Professional standards

### 1.16 Comply with regulatory requirements set down by the Bar Standards Board, including the Code of Conduct.

They will clearly understand a barrister's core duties and apply them in all aspects of their work.

Barristers must:

- a) Identify the most recent Code of Conduct and other applicable rules and regulations relevant to their practice and the conduct of any matters they are dealing with.
- b) Recognise potential ethical situations and identify ethical issues.
- c) Behave ethically in accordance with the Code of Conduct and other applicable rules and regulations.
- d) Consistently act in accordance with the Code of Conduct and other applicable rules and regulations.

### 1.17 Know how to conduct themselves appropriately in court.

They will know and use the required dress, accepted forms of address, formalities of proceedings and established conventions and customs in each forum where they represent clients.

Barristers must:

- a) Use the required dress, accepted forms of address, observe formalities of proceedings and follow established conventions and customs in each forum where they represent clients.

**1.18 Only accept work which they believe they are competent to undertake**

They will be able to assess the level of their own knowledge, skills and attributes, to enable them to make an informed judgement on the acceptance of work and have the resilience to decline to act where necessary.

Barristers must:

- a) Recognise and operate within the limits of their competence.
- b) Explain clearly the limits of their competence and knowledge to relevant others.
- c) Consult others where appropriate.
- d) Make an informed judgement on the level of knowledge, skills and attributes required in a particular case.
- e) Decline to act where necessary and refer a client to an appropriate other where this serves the client's best interests.

**2. Personal values and standards**

Barristers will:

**2.1 Act with the utmost integrity and independence at all times, in the interests of justice, representing clients with courage, perseverance and fearlessness.**

They will be aware of and recognise the explicit and implicit pressures to behave in any other way and resist those pressures even where to do so may be against their personal interests.

Barristers must:

- a) Identify situations where their integrity and/or independence may be put at risk.
- b) Act with integrity including:
  - (i) Identifying and avoiding personal bias;
  - (ii) Maintaining their independence from external pressures;
  - (iii) Identifying potential conflicts of interest, being open about conflicts of interest, declaring conflicts of interest formally and being prepared to exclude themselves from acting.
- c) Uphold the reputation of the Bar and observe their duty to the court in the administration of justice [1.1].
- d) Comply with regulatory requirements set down by the Bar Standards Board, including the Code of Conduct [1.16].
- e) Take responsibility for their actions and advice.

## 2.2 Be honest in their dealings with others.

They will ensure that they do not communicate in any way anything that they know or ought to know is untrue, incomplete, inaccurate, or likely to be misleading.

Barristers must:

- a) Comply with regulatory requirements set down by the Bar Standards Board, including the Code of Conduct [1.16].
- b) Ensure that they are honest about the limits of their knowledge, their experience, qualifications and professional status.
- c) Ensure that any information they give is accurate, true, complete and not likely to mislead.

## 2.3 Be aware and active in the pursuit of equality and respect for diversity, not tolerating unlawful discrimination, in themselves or others.

They will understand the law on equality and the need to value differences between members of society and apply that understanding in the workplace through taking positive steps to confront and tackle discrimination, whether in themselves, in others or in the structures of that workplace.

Barristers must:

- a) Actively observe and uphold the law on equality, diversity and discrimination.
- b) Be alert to the potential for unconscious bias.
- c) Take active steps to act fairly and inclusively and show respect to others.
- d) Identify situations where there is a risk of breach of the law on equality and diversity.
- e) Promote diversity in the workplace and where appropriate challenge others if their behaviour does not comply with the spirit of the law relating to equality, diversity and discrimination.

## 2.4 Ensure their work does not incur unnecessary fees.

They will establish with a client at the outset of any matter the basis for charging fees and then follow those arrangements in a cost-effective manner. They will only undertake work which they believe promotes their client's interests.

Barristers must:

- a) Establish the basis for charging fees, at the outset of any matter, with the client.

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| <ul style="list-style-type: none"> <li>b) Follow those arrangements in a cost effective manner, agreeing any necessary changes to the arrangements with the client.</li> <li>c) Undertake work that promotes the client's best interests.</li> <li>d) Progress matters expeditiously.</li> </ul> |
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**2.5 Adopt a reflective approach to their work, enabling them to correct errors and admit if they have made mistakes.**

They will continually assess their weaknesses, limitations or knowledge gaps, analysing them accurately and honestly. They will acknowledge these to others if appropriate, and learn from the reflective process.

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| <p>Barristers must:</p> <ul style="list-style-type: none"> <li>a) Recognise limitations of personal knowledge and skills and act to resolve the situation.</li> <li>b) Take appropriate action when experiencing difficulties with work that is beyond their professional competence and disclose as appropriate.</li> <li>c) Identify their errors of judgement, omissions and mistakes and take appropriate action.</li> <li>d) Ask for and make effective use of feedback, guidance, advice and support.</li> <li>e) Take appropriate action to manage personal difficulties that might otherwise affect their work.</li> </ul> |
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**2.6 Ensure they practise with adaptability and flexibility, by being self-aware and self-directed, recognising and acting upon the continual need to maintain and develop their knowledge and skills.**

They will be able to plan and develop their career by identifying their strengths and preferences and the risks and opportunities of the environment in which they work. They will be able to assess their legal knowledge and skills and their working environment regularly, then eliminate any perceived knowledge or skills shortfall, ensuring their abilities remain relevant for the work they wish to undertake.

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| <p>Barristers must:</p> <ul style="list-style-type: none"> <li>a) Take responsibility for planning and undertaking personal development and learning.</li> <li>b) Identify strengths and areas for development and take positive steps to address them.</li> <li>c) Reflect on and learn from their own and others performance and achievements.</li> <li>d) Record reflection and learning.</li> <li>e) Maintain and develop relevant knowledge and skills.</li> </ul> |
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- f) Regularly take part in activities that maintain and develop their competence and performance.

### **3. Working with others**

#### **At work**

Barristers will:

#### **3.1 Understand and exercise their duty to act in the best interests of their client.**

They will apply this core barrister's duty in every case except where it conflicts with their duty to the court in the administration of justice.

Barristers must:

- a) Provide a competent standard of work and service to each client [CD7].
- b) Identify the client's best interests.
- c) Recognise and evaluate any conflict between the client's best interests and their duty to the court, their obligation to act with honesty and integrity and to maintain their independence.
- d) Take the appropriate course of action in light of the Code of Conduct and other applicable rules and regulations.

#### **3.2 Understand and apply principles of team working where appropriate.**

They will have an understanding of how teams work and the benefits of team working and be able to use their individual knowledge and skills to work collaboratively with others towards a common goal. They will be able to play an active role in supporting a team-working ethos, work co-operatively with others and willingly give help and support to colleagues, know when to offer assistance and advice and do so when required.

Barristers must:

- a) Work collaboratively with others, respecting their skills and contributions.
- b) Comprehend how their behaviour may affect others within and outside teams.
- c) Reflect on own strengths and weaknesses as a team member.
- d) Understand the division of responsibilities within the team.
- e) Understand the relationship between counsel and instructing solicitor, and leading and junior counsel.
- f) Delegate to and supervise others effectively.
- g) Establish and maintain effective professional relations with others.

### 3.3 Respond appropriately to those from diverse backgrounds and to the needs and sensitivities created by individual circumstances.

They will be aware of the potentially differing needs of people from a range of backgrounds, life experiences, or those who have characteristics which are protected under the Equality Act 2010. They will be receptive and responsive to how those needs might be met through making adjustments to their own practices.

Barristers must:

- a) Be aware and active in the pursuit of equality and respect for diversity [2.3].
- b) Provide information in a way that others can understand taking into account their personal circumstances and any particular vulnerability.
- c) Recognise and respond effectively to others' particular needs, objectives, priorities and constraints.
- d) Recognise and take reasonable steps to meet the particular needs of clients including those who are disabled or vulnerable.

### 3.4 Treat all people with respect and courtesy, regardless of their background or circumstances.

They will be aware of the diversity of people they may encounter and use that awareness to modify their behaviour where necessary so as to demonstrate respect and convey courtesy to all. They will know how and where to demonstrate empathy, and act accordingly. In their own workplace, they will treat senior, junior and support colleagues with respect and courtesy, recognising where an adversarial approach is not suitable.

Barristers must:

- a) Demonstrate suitable professional practice, politeness and respect in communications and personal interactions with others.
- b) Recognise people's differences and modify their behaviour where appropriate to take account of those differences.

### 3.5 Where appropriate, keep clients, whether lay or professional, informed of case progress in a clear and timely manner and manage their expectations.

They will be able to identify situations where keeping the client informed is their responsibility and in those circumstances they will be able to establish with their clients a suitable structure, including timescales, for communicating significant developments in their case and communicate those effectively. This will include telling the client about options as their case develops, possible outcomes and associated risks.

Barristers must:

- a) Identify the level of their responsibility to consult with and to communicate case progress to a particular client.

- b) Inform clients in a timely manner of key facts and issues including key dates, risks, progress towards objectives and costs.
- c) Identify and evaluate possible courses of action and their consequences and assist clients in reaching a decision.
- d) Manage clients' expectations including in relation to options, the range of possible outcomes, risks and timescales.
- e) Respond appropriately to clients' concerns and complaints.

## Lay individuals

### 3.6 Demonstrate a good awareness of their additional responsibilities in cases involving direct access and litigants in person.

They will understand and apply the relevant elements of the Code of Conduct for barristers in this regard and the need to maintain a balance between their duty not to take unfair advantage and their duty to the court. They will recognise and appreciate the potential lack of understanding where clients or opponents have an inadequate knowledge of the law and procedure compared with those whose cases are conducted through qualified legal advisors and the effect this may have on the handling of a matter.

Barristers must:

- a) Recognise and appreciate the position of direct access clients or opponents not represented by qualified legal advisors (litigants in person) and the potential effect on the handling of the matter.
- b) Act in accordance with the Code of Conduct and other rules and regulations applicable to direct access clients or litigants in person.

## 4. Management of practice

### Personal practice management

Barristers will:

#### 4.1 Where appropriate, possess a strong understanding of the specific implications of being:

##### 4.1.1 a self-employed barrister.

They will be able to supervise the day-to-day management of their practice by clerks and other employees and accept overall responsibility for all delegated work.

Barristers must:

- a) Demonstrate a thorough understanding of the scope of practice rules relevant to a self-employed barrister.
- b) Demonstrate a thorough understanding of the commercial, organisational and financial context in which they work and their place in it.

#### 4.1.2 an employed barrister.

They will understand the specific implications of being employed as a barrister. They will be able to identify and deal with any conflicts of interest that arise as a result of their employed status and act with independence.

Barristers must:

- a) Demonstrate a thorough understanding of the scope of practice rules relevant to an employed barrister.
- b) Demonstrate a thorough understanding of the commercial, organisational and financial context in which they work and their place in it.

#### 4.2 Possess sufficient understanding of organisational and management skills to be able to maintain an effective and efficient practice.

They will have an awareness of skills such as time and project management, planning, record keeping, using IT effectively and personal development. They will analyse their own needs for such skills then acquire and apply them to a good standard where necessary. They will have a basic understanding of risk analysis so as to be able to apply it to their work. The employed barrister in particular will ensure they understand the governance structure of the organisation in which they work and achieve a balance between their obligations to that organisation and their professional duties.

Barristers must:

- (a) Be competent in all aspects of their work, including organisation, management of practice and risk.
- (b) Competent organisation includes:
  - (i) Keeping accurate records (including financial records and time-recording) and files;
  - (ii) Allocating time efficiently;
  - (iii) Prioritising;
  - (iv) Observing deadlines;
  - (v) Using resources (including IT systems) effectively;
  - (vi) Being fully prepared.
- (c) Competent management includes:
  - (i) Planning;
  - (ii) Putting in place human and non-human resources;
  - (iii) Coordinating;
  - (iv) Leading or directing;
  - (v) Checking progress against plans to accomplish the goal or target.
- (d) Competent risk management includes:

- (i) Identifying, evaluating and measuring the probability and severity of risks to their practice;
- (ii) Proactively deciding what to do about risks and acting appropriately.
- (e) Comprehend the relevance of strategic planning, financial planning and business development in the context in which they work.

#### **4.3 Plan their personal workload and absences so as to ensure they deliver on all work commitments they have made.**

They will ensure their workload is manageable. They will have a basic understanding of business continuity so as to be able to deal with unplanned circumstances. They will be sufficiently organised to ensure absences are planned so as to enable them to honour commitments.

Barristers must:

- a) Clarify instructions so as to agree the scope and objectives of the work.
- b) Make an informed judgement on the time required to prepare a matter.
- c) Take account of their availability and that of other resources.
- d) Decline to act where there is insufficient time and opportunity to prepare.
- e) Prioritise and plan workload to meet commitments.
- f) Meet timescales, resource requirements and budgets.
- g) Monitor and keep relevant others informed of progress.
- h) Deal effectively with unplanned circumstances and re-prioritise as necessary.

#### **At workplace level**

#### **4.4 Understand the organisational systems or structures within which they work and which support their delivery of a professional service.**

They will contribute to the efficient operation of their workplace where appropriate through such actions as the sharing of work when necessary, the developing of the business, and the creation of effective support systems.

Barristers must:

- a) Contribute to efficient operation of the workplace including:
  - (i) Sharing work when necessary;
  - (ii) Undertaking business development activity;
  - (iii) Creating effective support systems;
  - (iv) Working effectively within governance structures.

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| b) | Understand the contractual basis on which legal services are provided including where appropriate how to calculate and manage costs and bill clients. |
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## Professional compliance and work

### 4.5 Maintain the confidentiality of their clients' affairs, adopting secure technology where appropriate.

They will be aware of and be able to use either electronic or hard copy information management systems so as to ensure the confidentiality and security of their client's information as well as comply with current file storage and destruction regulations.

Barristers must:

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| a) | Identify how they will act in accordance with the Code of Conduct and other rules and regulations applicable to maintaining the confidentiality and security of information relating to third parties including that of their current and former clients. |
| b) | Comply with relevant data protection requirements.  |

### 4.6 Exercise good time-keeping in face-to-face or telephone encounters.

They should attend meetings, conferences and court appearances punctually and fully prepared unless prevented by matters beyond their control.

Barristers must:

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| a) | Attend all appointments punctually and as fully prepared as possible in the circumstances. |
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### 4.7 Where necessary, be diligent in keeping good records and files of cases.

They will be able to identify situations where keeping records and files is their responsibility and in those circumstances they will ensure that the records they keep may be understood by others as well as themselves, are organised, accurate, contain sufficient details to portray a true record and are up-to-date.

Barristers must:

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| a) | Identify when compiling and keeping records and files is their responsibility.  |
| b) | Prepare and compile appropriate records at the same time or as soon as possible after the events that they are recording. |
| c) | Ensure records are clear, accurate and legible and contain sufficient detail for their purpose.                           |
| d) | Organise records so that they are retrievable by themselves and other authorised persons.                                 |