

CURRENT GUIDANCE

Professional conduct issues for barristers practising in-house

General obligations

1. All barristers are subject to the rules contained in the [BSB Handbook](#). The exact rules that apply will depend on the status of the barrister (unregistered, self-employed, employed or dual capacity etc.) and the regulatory status of their employer, if any (a regulated law firm, a company or an alternative business structure etc.)
2. This guidance focuses on the application of the Core Duties to barristers employed in an in-house setting, albeit that there are likely to be overlaps with how the Core Duties apply to those barristers employed in regulated law firms and elsewhere. The Core Duties are supplemented by the Conduct Rules, and further guidance, which are found in the BSB Handbook. The Core Duties apply, as set out in rC2, to all barristers regardless of practising status. They are:
 - CD1. You must observe your duty to the court in the administration of justice.
 - CD2. You must act in the best interests of each client.
 - CD3. You must act with honesty, and with integrity.
 - CD4. You must maintain your independence.
 - CD5. You must not behave in a way which is likely to diminish the trust and confidence which the public places in you or in the profession.
 - CD6. You must keep the affairs of each client confidential.
 - CD7. You must provide a competent standard of work and service to each client.
 - CD8. You must not discriminate unlawfully against any person.
 - CD9. You must be open and co-operative with your regulators.
 - CD10. 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

3. Crucially for in-house barristers, the duty to your client (CD2) is subject to other duties, such as your duties to the court (CD1), not to diminish public confidence (CD5), to act with honesty and integrity (CD3) and to maintain your independence (CD4).
4. Among relevant Conduct Rules, in-house barristers should also take particular note of rC21, which is a requirement to avoid conflicts of interest.

Who is your client?

5. Identifying your client is essential, in order to ensure that you know to whom you owe the duties outlined above. As an employed barrister, your client is generally your employer, not your line manager or any particular individual or team in the organisation. Unless agreed otherwise, you should consider yourself to be acting for the Board, or the most senior level of decision-making in your organisation's governance. You should ensure that this is clear and understood by your employer if this is not set out in your terms of employment. Although your instructions may come from an individual within the organisation, you should consider carefully who is instructing you within your organisation, e.g. is it a particular department, or a particular company within the group of companies in which you are employed. Terms of reference for decision-makers within your organisation may provide a useful guide as to who has the authority to instruct in-house legal counsel.
6. You should ensure that colleagues know how to instruct you and how widely to circulate any advice that you give. Circulating legal advice too broadly may breach client confidentiality or invalidate legal professional privilege. For example, this may happen if you send advice too broadly within the organisation, to someone employed by an arm's length service entity, or to a corporate entity in a jurisdiction which does not respect privilege. To mitigate this risk, it may be helpful to define an "internal client group" (i.e. those authorised to seek and receive legal advice) and to have clear arrangements

regarding the labelling, storage and sharing of legal advice to avoid a loss or inadvertent waiver of privilege.

7. It is wise to ensure that there are appropriate communication channels between you (or your management hierarchy) and the Board/decision-maker of your employer. This will ensure that any legal risks or issues can be appropriately raised.
8. An employed barrister's scope of practice will vary according to the nature of their employer. Barristers who are employed by a regulated entity (such as a firm authorised by the Solicitors Regulation Authority or a BSB-authorised entity) may be able to advise a wide range of the firm's clients. However, barristers who are employed in-house (by a "non-authorised body"), may advise only their employer and, in limited cases, third parties closely connected to their employer. For example, a barrister employed by a trade association can advise members of the association, and barristers employed by a Legal Advice Centre can advise clients of the Legal Advice Centre. Fuller details of the permitted scope of practice are set out in the BSB Handbook at rS39 and associated guidance gS8A to gS8C.

Scope of activities

9. An in-house barrister may be asked to join committees or management teams that are responsible for the general management of the organisation's activities. If you undertake such a role, you must take care to ensure that your independence is not compromised, and you can continue to honour your professional duties. Such situations may lead to a conflict of interest. An in-house barrister may be asked to join the board of a company. In some cases, the in-house barrister may be more effective as legal adviser to their employer, if their influence is felt at the highest level. However, in some cases the barrister may find it easier to manage professional duties by remaining below board level, for example if the director's duty to promote the success of the company, under the Companies Act, puts them at odds with professional duties as a barrister. Which approach is better, will depend on the individual circumstances.

The conduct of litigation

10. Carrying on the conduct of litigation is a reserved activity under the Legal Services Act 2007. As such, it may only be undertaken by barristers who have been authorised to do so by the BSB¹. The BSB has published detailed guidance on conducting litigation², which is currently being reviewed in the light of the Court of Appeal's judgment in *CILEX & Ors v Mazur & Ors* [2026] EWCA Civ 369³. In the meantime, you should read the guidance on conducting litigation in conjunction with the Court of Appeal judgment.

11. If you are not authorised to conduct litigation but are assisting someone who is authorised, you should take care to ensure that your actions do not amount to the carrying on of the conduct of litigation. If you are authorised to conduct litigation, you should ensure that any unauthorised person assisting you does not undertake any reserved activities and that you retain responsibility for the conduct of litigation, with appropriate arrangements being in place for the proper direction, supervision and control of the litigation.

¹ Unless otherwise permitted to do so by the Legal Services Act 2007 or other legislation – see the BSB's guidance on conducting litigation for further information

² <https://www.barstandardsboard.org.uk/static/5942518a-3f66-49ac-9d7a0f430c12c3e1/0f71837e-bd08-4541-a224003234d30284/Conducting-Litigation.pdf>

³ Available at <https://www.judiciary.uk/wp-content/uploads/2026/03/Mazur.APPROVEDJUDGMENTS.1.pdf>

Examples of ethical scenarios at the employed Bar

Scenario 1

An employed barrister is very environmentally conscious and spends weekends at Extinction Rebellion demos. At work, her supervisor asks her to handle a new matter - financing for a new coal mine. She refuses because it offends her conscience.

The 'requirement not to discriminate' (rC28) applies to all members of the practising Bar. This states that barristers must not withhold services (or permit them to be withheld) on the grounds that: the nature of the case is objectionable to the barrister or any section of the public; that the conduct, opinions or beliefs of the prospective client are unacceptable to the barrister or to any section of the public; or on any ground relating to the source of any financial support which may properly be given to the prospective client for the proceedings in question.

Scenario 2

A barrister is employed by the parent company of a group of companies. A colleague from a foreign subsidiary of the parent asks the employed barrister to advise on legal matters. Can she help? Would it matter if the legal matters are related to intra-group legal agreements?

This goes to defining who the client is, within a corporate structure. In this scenario, the client is the parent company. It may permit the barrister to advise subsidiaries within the corporate structure, but the barrister must consider whether any conflicts of interest arise. For example, are the objectives of the two entities the same? If the matter relates to intra-group agreements, then (depending on the facts) the barrister may need to insist that the subsidiary seeks independent advice. Where the barrister does give advice, they may also need to consider whether legal professional privilege is protected in respect of advice given to the foreign subsidiary outside the jurisdiction of England and Wales.

Scenario 3

An employed barrister manages a small team of lawyers. As part of the annual appraisal cycle, he seeks feedback on team members from internal stakeholders. One team member attracts particularly negative comment. A colleague in the Sales department says, "She is very slow and always finding problems. Could you please find a way to move her on?" Another colleague in the Trading team says, "She's a deal-killer. Not client centric." How should the employed barrister address these comments?

This goes to the application of ethics in relation to management. The Core Duties and Conduct Rules apply "when practising or otherwise providing legal services". This may include supervising the legal work of others. If the feedback is well founded, the barrister may need to reflect on whether they have directed and supervised work correctly, and whether that in turn raises professional conduct questions, for example under CD7

(competent service). If, however, the complaints are not well founded, then this goes to the topic of acting in the best interests of the client (defining who the client is and differentiating commercial pressures from the more rounded interest of the employer). If the barrister is managing a team of lawyers, they must ensure that those lawyers' independence is protected and that any legal advice is provided independently of any commercial pressures within the organisation. The barrister may need to put arrangements in place to ensure that other parts of the organisation understand how to instruct those lawyers and the proper role of a lawyer within the organisation.

Scenario 4

An employed barrister works at a bank and is advising on whether a new transaction will benefit from a security package being offered by the bank's counterparty. If it does, there is less credit risk in the deal for the bank, and it can offer better pricing and earn greater profit. Although the barrister thinks the arrangements probably do benefit from security, it isn't completely clear. The commercial team say, "We can only book this as secured or unsecured, so can you confirm it is secured as it's in the interest of the bank to do this business."

This kind of scenario - pressure to give advice in the most favourable light - is quite common. It goes to defining who the client is, and what their interests are (the interests of the commercial team can differ from those of risk management teams and board). It also goes to independence and acting with integrity. It is important that any advice the barrister gives is independent, and that the barrister acts with honesty and integrity when carrying out their role. The client is the barrister's employer, not solely the commercial team that is directly engaging with the barrister. The barrister should ensure that any advice given reflects the fuller interests of the client.

Scenario 5

An urgent matter has arisen that needs the immediate attention of the in-house legal team. The employed barrister is junior, and his supervisor is on holiday. He is not confident to advise on the matter, but no one else is available. The commercial team is insistent and asks for a "quick and dirty" job.

Employed barristers are under a duty to provide a competent standard of work to their employer. The barrister must also act independently and with integrity. The barrister should therefore take care to manage expectations about what can reasonably be provided. Depending on the facts, there may be steps the barrister can take to help, even in unfamiliar areas. For example, they may be able to call on guidance from another more senior lawyer, or to seek assistance from external counsel, or to help only after completing adequate research. However, if the barrister is not competent to handle a particular matter, they should refuse, as required by rC21.8.

Scenario 6

An employed barrister is asked to become a member of an internal committee. The role of the committee is to approve new products before they are launched.

This goes to independence. How can the barrister be independent of the client if they are also part of the decision-making machinery of the firm? There are ways this can be addressed, for example through crafting terms of reference for the committee which make clear the barrister's role is confined to legal advice. This question also arises if a barrister is asked to join the board. A barrister should consider whether this compromises their independence in their role as a legal adviser. Conversely, although they may participate in the general management of the organisation, the barrister may then not be able to provide legal advice in relation to these activities if they are not able to do so independently or if a potential conflict exists. There is no prohibition on a barrister performing different roles within an organisation, as long as they can do so while respecting their professional obligations.

Scenario 7

An employed barrister worked for a leading regulator for 10 years before moving from the regulator into private practice at a city law firm. When working at the regulator the employed barrister had undertaken work in support of a large fine and public censure against ABC Ltd. ABC Ltd is one of the law firm's biggest clients. One of the partners has included the employed barrister's credentials in response to a request for proposal ("**RFP**") for ABC Ltd who are looking for further legal support in respect of their dealings with the regulator. The RFP response boasts that the employed barrister will provide ABC Ltd with 'the inside track' on how to deal with the regulator. The regulator decides to take enforcement action against ABC Ltd again. One of the partners at the law firm insists that employed barrister works on the case for ABC Ltd and has told ABC Ltd's CEO that the employed barrister will provide 'tactical dirt' and 'inside information' about how to 'defeat' the regulator.

This is about keeping the affairs of clients confidential, acting with sufficient independence and integrity, and not misleading ABC Ltd or anyone else about what you can and are permitted to do as an employed barrister. The duty to keep the affairs of clients confidential extends to former clients. You must also ensure that you act with honesty, integrity and independence.

Scenario 8

A barrister is employed on a short-term contract to help a company prepare its defence against litigation. This has included briefing an expert, who initially indicated a view which favoured the company. However, while preparing a draft report for the court, the expert settled on a less conclusive view. A non-lawyer manager says "it needs to be clear why we are taking this position, so can you please make sure the report reflects the way the expert originally put it? If there are any doubts, then it's the other side's job to point that out."

This example highlights a number of professional duties, but most of all the barrister's duty to the court in the administration of justice, which overrides duties to the client. In this example, skewing information provided to the court does not serve the client's interests either. If the company's management knew the true position, they might be more inclined to take a different strategy such as seeking settlement. The barrister should advise their manager of this and ultimately, must decline to prepare documents which could mislead the court.

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Bar Standards Board