Guidance for applying for a practising certificate
and the Authorisation to Practise (ATP) process

Contents

How applications are dealt with.................................................................................................................. 2
Practising certificates..................................................................................................................................... 2
How to contact us........................................................................................................................................... 2
Useful information......................................................................................................................................... 3
Change of name............................................................................................................................................... 3
Where to send the form................................................................................................................................. 3
Section 1 – Personal details......................................................................................................................... 4
Section 2 – Practising details and entitlement to exercise reserved legal activities .................. 4
Section 3 – Continuing Professional Development (CPD)................................................................. 10
Section 4 – Insurance.................................................................................................................................. 10
Section 5 – Payment of the practising certificate and Bar Representation Fee...................... 11
Section 6 – Communication preferences ............................................................................................. 11
Section 7 – Declaration of truth............................................................................................................... 11
How applications are dealt with

Applications are considered and determined by the Records Department, who will process your application and confirm that you are authorised to practise, advise you that further information is required, or refuse your application for a practising certificate. If your application is refused, you will be informed of the reasons for refusal and provided with details of how this decision can be reviewed.

All applications will be processed within seven working days.

Practising certificates

If your application is successful, your practising certificate will be available to download from your Barrister Connect account.

If you need assistance completing this form or have a query about your practising certificate fee, please contact the Records Department on 020 7242 0934 or email Records@BarCouncil.org.uk

Lines are open 09:00-17:00 Monday to Friday. Calls may be monitored for training and quality assurance purposes.

Ethical Enquiries Service

If you are unsure whether or not the work you are undertaking requires you to hold a practising certificate then please contact the Ethical Enquiries Service on 020 7611 1307 or email Ethics@BarCouncil.org.uk

Applying for an extension or exemption from the CPD requirements

If you have not completed your CPD requirements and need to apply for an extension of time or exemption from the requirements, you can download an application form from the Bar Standards Board website, please refer to: regulatory requirements for barristers, extensions and waivers.

Please call the BSB's Qualifications Section on 020 7611 1444 or email Pauline Smith at PSmith@BarStandardsBoard.org.uk

Checking whether you have any outstanding CPD requirements

If you are returning to practice and are unsure whether you have any outstanding CPD requirements, please call the CPD Compliance Team on 020 7611 1444 or email CPDRecords@BarStandardsBoard.org.uk
Useful information

What should I do if I no longer require my practising certificate?

You do not need to return this application form, but you must notify the Records Department by completing the unregistered barristers form and sending this to:

Records Department
Bar Council
289-293 High Holborn
London WC1V 7HZ
DX 240 LDE

Or fax your form to 020 7831 9217 or email it to Records@BarCouncil.org.uk

What should I do if I am unsure whether the work I am undertaking requires a practising certificate?

Please contact Ethical Enquiries Service on 020 7611 1307 or email Ethics@BarCouncil.org.uk

Please refer to the BSB’s ‘Guidance for Unregistered Barristers (Barristers without Practising Certificates) – Supplying Legal Services and Holding Out’, which is available here: https://www.barstandardsboard.org.uk/regulatory-requirements/bsb-handbook/code-guidance/.

What do I do if I have changed my name?

To change your name on our records, you must firstly notify your Inn of Court by sending a certified copy of a deed poll or certified copy of your marriage certificate. Once your Inn of Court has amended their records, please inform the Records Department, who will be able to update their records.

Where to send the form

Please send your form and fee to:

Records Department
The Bar Council
289-293 High Holborn
London WC1V 7HZ
DX 240 LDE.

Or fax it to 020 7831 9217 or email it to Records@BarCouncil.org.uk.

Contact the Records Department on 020 7242 0934 to make payment.

Any payment unaccompanied by an application form will be held for a maximum of 10 working days before being returned to the sender.
The deadline for the form and the fee is 21 March 2014 (to allow six working days to process your application).

Barristers who are returning to practice part way through the practising certificate year must be authorised to practise before exercising any reserved legal activities.

Section 1 – Your personal details

Membership number

Every barrister has a unique individual member number. Please enter these details if you know your membership number.

Section 2 – Practising details and entitlement to exercise reserved legal activities

Chambers’ details

The full contact details of your main chambers should be entered here.

Commencement date

This form will be used for renewal applications and those who are returning to practice.

- If your application is for a renewal and you have not moved chambers please indicate ‘yes’
- If your application is for a renewal and you have moved chambers or changed the capacity in which you practise, please enter the date when the new arrangements commenced. Notification of any change of status must be within 28 days, and
- If you are returning to practice, please enter the date when you will recommence practice. You must be authorised to practise before exercising any reserved legal activities.

Practising as a sole practitioner

If you are about to commence practice as a sole practitioner please refer to the BSB’s guidance on ‘Becoming a Sole Practitioner’, which is available here: https://www.barstandardsboard.org.uk/code-guidance/becoming-a-sole-practitioner/.

Your employer’s details

The full contact details of your main employer should be entered here.
Commencement date

This form will be used for renewal applications and those who are returning to practice.

- If your application is for a renewal and you have not moved employer please indicate 'yes'
- If your application is for a renewal and you have moved employer or changed the capacity in which you practise, please enter the date when the new arrangements commenced. Notification of any change of status must be within 28 days.
- If you are returning to practice, please enter the date when you will recommence practice. You must be authorised to practise before exercising any reserved legal activities.

Please confirm whether your employer is an authorised body

An Authorised body is a body that has been authorised by another approved regulator to undertake reserved legal activities.

A Licensed body is a body licensed by a licensing authority, other than the BSB, under Part 5 of the Legal Services Act 2007. Licensed bodies are a new type of law firm also called alternative business structures. For example, a licensed body could be a firm with non-lawyer managers, a company taken over by a non-lawyer enterprise, a company floated on the stock exchange, or a firm which provides both legal services and non-legal services. An alternative business structure will need to be licensed by a licensing authority.

Manager or employee

A manager of an authorised body is a person who is a partner in a partnership, a member of an LLP, as a director of a company, or (in relation to any other body) is a member of its governing body.

Entitlement to exercise full rights of audience, and provide services to the public

If you have not been entitled to exercise full rights of audience for at least three years (during which you have made practice as a barrister or other authorised person your primary occupation) or you have not been granted a waiver from this requirement by the BSB in respect of a qualified person for rights of audience and/or supplying legal services to the public then¹:

- If you are a self-employed barrister, your principal place of practice must be a chambers or an annex of chambers which is also the principal place of practice of a relevant qualified person, who is readily available to provide guidance in relation to your work when you are providing services to the public or exercising a right of audience
- If you are an employed barrister, your principal place of practice must be an office or an organisation of which an employee, partner, manager or director is a relevant

¹ rS20 and rS21
qualified person who is readily available to provide guidance in relation to your work when you are providing services to the public or exercising a right of audience.

If you are employed by a non-authorised body and are providing legal services only to your employer and those listed at rS39.2 to rS39.6 in the Handbook then the requirement to work with a relevant qualified person applies only if you have not been entitled to exercise full rights of audience in the manner described above for one year.

If you have previously provided details of your 'qualified person' and have now changed 'qualified person', please enter their name and the date of this change.

A qualified person (supplying legal services to the public) must be a person who:

- has been entitled to practise and has practised as a barrister (other than as a pupil who has not completed pupillage in accordance with the Bar Training Regulations) or as a person authorised by another Approved Regulator for a period (which need not have been as a person authorised by the same Approved Regulator) for at least six years in the previous eight years
- for the previous two years has made such practice his primary occupation
- is not acting as a qualified person in relation to more than two other people and
- has not been designated by the BSB as unsuitable to be a qualified person.

A qualified person (Rights of Audience) must meet the requirements above but must additionally for the previous two years have been entitled to exercise a right of audience before every court in relation to all proceedings. The same person may act as a qualified person in relation to both rights of audience and supplying legal services to the public.

If you are a barrister exercising a right of audience in a Member State other than the United Kingdom pursuant to the Establishment Directive, or in Scotland or Northern Ireland pursuant to the European Communities (Lawyer’s Practice) Regulations 2000, a person shall be a qualified person (rights of audience) for the purposes of rS20 if he has been designated by the BSB as possessing qualifications and experience in that state or country which are equivalent to the qualifications and experience required by rS22.3.a.i and rS22.3.a.ii, is not acting as a qualified person in relation to more than two other people and has not been designated by the BSB as unsuitable to be a qualified person.

Employed barristers: additional guidance

Employed barristers are permitted to offer legal services to a number of individuals in the course of their employment, depending on whether they are employed in an authorised body (for example a solicitors’ firm) or non-authorised body (for example acting as in-house counsel).

If you are employed in an authorised body, you may supply legal services to:

---

2 rS22.1, BSB Handbook
3 rS22.2, BSB Handbook
4 rS22.2.b, BSB Handbook
the authorised body
any employee, director or company secretary of the authorised body in a matter arising out of or relating to that person’s employment
any client of the authorised (non-BSB) body
if you provide legal services at a Legal Advice Centre, clients of the Legal Advice Centre, or
if you supply legal services free of charge, members of the public.

If you are employed by a non-authorised body, you may supply legal services to:

- your employer
- any employee, director or company secretary of your employer in a matter arising out of or relating to that person’s employment
- if your employer is a public authority (including the Crown or a Government department or agency or a local authority), another public authority on behalf of which your employer has made arrangements under statute or otherwise to supply any legal services or to perform any of that other public authority's functions as agent or otherwise
- if you are employed by or in a Government department or agency, any Minister or Officer of the Crown
- if you are employed by a trade association, any individual member of the association
- if you are, or are performing the functions of, a Justices' clerk, the Justices whom you serve
- if you are employed by the Legal Aid Agency, members of the public
- if you are employed by or at a Legal Advice Centre, clients of the Legal Advice Centre
- if you supply legal services free of charge, members of the public, or
- if your employer is a foreign lawyer and the legal services consist of foreign work, any client of your employer.

If any of the legal work that you do is for clients of your employer then you are providing services to the public. If you are doing this, or exercising rights of audience, you must ensure that you comply with the requirement to work with a qualified person if required to do so by the BSB Handbook (see above).

Dual practice questions

Under rS18 of the Scope of Practice Rules in the BSB Handbook a barrister may practise or be involved with the supply of legal services in more than one capacity only after having:

- Obtained a practising certificate from the BSB which recognises the capacities in respect of which you are intending to practise, and
- Agreed a protocol with each employer or authorised body with which you are involved to avoid or resolve and conflicts of interests. If you have not agreed this, you will be unable to proceed with your application until this has been agreed. A copy of any such protocol must be provided to the BSB on request.
You must never work in more than one capacity in relation to the same case or issue for the same client, at the same time. rC21.3, rC81 and rC82 of the Code of Conduct in the BSB Handbook impose requirements that barristers who wish to practice in more than one capacity should pay particular attention to.

Please also refer to the BSB’s ‘Guidance on Practice in Authorised Bodies’, which is available here: https://www.barstandardsboard.org.uk/media/1392073/guidance_on_practise_in_authorised_bodies_-_-feb_2012.pdf.

You are required to confirm your main practising address for correspondence purposes.

If in your employment you do not intend to hold yourself out as a barrister or exercise any reserved legal activities, which include exercising rights of audience, conducting litigation, reserved instrument activities, probate activities and the administration of oaths, you do not need a practising certificate to practise in a dual capacity and should apply for a practising certificate to practise in a self-employed capacity.

Please note that you will still be ‘practising as a barrister’ when providing legal services in an employed capacity and must observe relevant provisions of the Handbook.

**Conducting litigation**

The BSB now allows both self-employed and employed barristers to apply to be authorised to conduct litigation. There are three ways in which barristers can be authorised to conduct litigation:

1. Self-employed and employed barristers can apply for an extension of their practising certificate by meeting the requirements of rS47 of the Code of Conduct (this process has been in place since 22 January 2014);

2. Employed barristers previously authorised to conduct litigation under Annexe I of the old Code of Conduct (8th Edn.) will retain their authorisation, provided that they remain in employed practice; or

3. By being independently entitled to conduct litigation by virtue of primary legislation.

**Barristers authorised by the BSB to conduct litigation**

You may apply for an extension to your practising certificate to conduct litigation by virtue of rS47. Please note that you may not do this as part of the authorisation to practise process – detailed guidance for those seeking to secure an extension to their practising certificate is available on the BSB website: https://www.barstandardsboard.org.uk/regulatory-requirements/for-barristers/authorisation-to-conduct-litigation/.

If you have been authorised to conduct litigation but have not been entitled to exercise full rights of audience for at least three years (during which you have made practice as a barrister or other authorised person your primary occupation) or you have not been granted a waiver from this requirement by the BSB in respect of a qualified person for litigation then⁵:

---

⁵ rS20 and rS21, BSB Handbook
If you are a self-employed barrister, your principal place of practice must be a chambers or an annex of chambers which is also the principal place of practice of a relevant qualified person, who is readily available to provide guidance in relation to your work when you are conducting litigation;

If you are an employed barrister, your principal place of practice must be an office of an organisation of which an employee, partner, manager or director is a relevant qualified person who is readily available to provide guidance in relation to your work when you are conducting litigation.

If you are employed by a non-authorised body and are providing legal services only to your employer and those listed at rS39.2 to rS39.6 in the Handbook then the requirement to work with a relevant qualified person applies only if you have not been entitled to exercise full rights of audience in the manner described above for one year.

A qualified person (litigation) must be a person who:

- has been entitled to practise and has practised as a barrister (other than as a pupil who has not completed pupillage in accordance with the Bar Training Regulations) or as a person authorised by another Approved Regulator for a period (which need not have been as a person authorised by the same Approved Regulator) for at least six years in the previous eight years; and

- for the previous two years has made such practice his primary occupation; and

- is entitled to conduct litigation before every court in relation to all proceedings;

- is not acting as a qualified person in relation to more than two other people; and

- has not been designated by the BSB as unsuitable to be a qualified person.

Barristers entitled to conduct litigation by virtue of legislation

Barristers employed in central government roles (including Crown Prosecutors) may be entitled to exercise rights to conduct litigation without the need for authorisation from the BSB. This exemption from the requirement to seek authorisation from the BSB is by virtue of primary legislation. Unless otherwise empowered to do so by primary legislation a barrister falling into this category may not undertake litigation outside of their employment without first securing BSB authorisation to do so.

- Crown Prosecutors

All barristers employed by the Crown Prosecution Service (CPS) who have been appointed as Crown Prosecutors do not need further authorisation from the BSB to conduct litigation work within that role. This exemption applies because barristers employed in this capacity act in accordance with the exercise of powers under the direction of the DPP in accordance with the Prosecution of Offences Act 1985. Crown Prosecutors are not entitled to undertake litigation outside of their role with the CPS without first securing BSB authorisation to do so.

- Other Government barristers

Employed government barristers have a right to conduct litigation as part of their employment by Treasury Solicitors, any government department, or any public body which

---

6 rS22.3, BSB Handbook
performs functions on behalf of the Crown. This exemption applies because of historical and current legislation. It is important to note that the right to conduct litigation, unless otherwise specified by primary legislation, is restricted to the barrister’s employment. If an employed barrister wanted to undertake litigation outside of their employment, for example on a pro bono basis or for a law centre, they must seek authorisation from the BSB to do so.

Section 3 – Continuing Professional Development (CPD)

You will be asked to confirm whether you are up to date with your CPD requirements as required under Section C of the Qualification Rules in the BSB Handbook. If you have not completed your required CPD hours from 2012 or 2013, you will not be refused authorisation. However, you will be asked to list what action you have taken or are taking to remedy the situation. You may also be referred to the BSB’s Supervision Department.

The CPD year runs from 1 January to 31 December. The question on the form relates to the completed CPD period up to 31 December 2013 or if you are returning to practice, the last time you held a practising certificate, as the CPD declaration is retrospective.

If you have not been in practice for a period of time prior to this application and chose to suspend your CPD requirements and are unsure of whether you have any outstanding CPD requirements, please call 020 7611 1444 for advice or email CPDRecords@BarStandardsBoard.org.uk.

Section 4 – Insurance

You are required to complete an insurance declaration confirming that you have and will maintain insurance as required under the Code of Conduct in the BSB Handbook.

If you are a self-employed barrister (or a self-employed registered European lawyer) providing legal services to the public, you must be insured on the terms provided by the Bar Council (under rC76.2 of the Code of Conduct in the BSB Handbook). Holding a practising certificate is not enough: before starting or offering to provide legal services to the public, you must obtain and maintain insurance. For a definition of legal services please refer to the BSB Handbook. Please note that the Bar Council will check its records against the records of BMIF to verify individual declarations where barristers should be entered as members of BMIF.

Registered European lawyers are not required to have their own insurance if:

- You provide to the BSB evidence to show that you are covered by insurance taken out or a guarantee provided in accordance with the rules of your home state, and
- The BSB is satisfied that such insurance or guarantee is fully equivalent in terms of conditions and extent of cover to the cover required pursuant to Rule C76. However, where the BSB is satisfied that the equivalence is only partial, the BSB may require you to arrange additional insurance or an additional guarantee to cover the elements which are not already covered by the insurance or guarantee contracted by you in accordance with the rules of your home state.
If you are an employed barrister providing legal services to the public, you must be insured on the terms prescribed by the BSB or the appropriate Approved Regulator if working in an authorised body.

If you are a Government barrister you are not required under the Code of Conduct in the BSB Handbook to have insurance.

If you are an employed barrister who provides legal services to your employer only you are not required under the Code of Conduct in the BSB Handbook to have insurance. It may however, be prudent for you to confirm with your employer that they have insurance in place to cover your actions, for which you may be personally liable.

If you provide legal services pro-bono, you should ensure that you are adequately covered by insurance either under your own insurance policy or under a policy taken out by the organisation for which you are working when providing such services.

If you are a self-employed barrister performing foreign work outside England and Wales you are exempt from the requirement to enter as a member of BMIF, however you must ensure that you are insured on the terms required by law or by the rules of the Bar in the place where you are practising.

If in doubt you should refer to the Code of Conduct in the BSB Handbook and such other guidance as is available on both the BSB and Bar Council websites.

Section 5– Payment of the PCF and Bar Representation Fee (BRF)

The ‘Schedule of Practising Certificate Fees’- policy and guidance 2014-15’ sets out the fee, waivers and the different ways to pay.

Please contact the Records Department on 020 7242 0934 for advice on your practising fee for 2014/15.

Please note that applications will not be processed unless they include the correct fee. You can pay the full amount by cheque or credit/debit card.

Paying by debit or credit card

We accept Visa, Visa Debit (Delta), Visa Electron, MasterCard and UK Maestro.

Please contact the Records Office on 020 7242 0934 to arrange payment. If you have paid your fee over the telephone, you will not be authorised to practise until you have returned your completed application form and received notification of your authorisation.

Will I receive a receipt for the fee and form?

You will receive a receipt for your debit or credit card payments. In all other cases, the practising certificate will be a receipt of successful completion of the process.
Section 6 – Communication preferences

Payment of the compulsory PCF and BRF will automatically opt-in to the options outlined in the form. You are able to tick the boxes to opt-out of these preferences.

If you have not paid your BRF you are able to opt-in to receive details about products and offers from the Member Services Team.

Section 7 – Declaration of truth

The declaration of truth must be completed in all cases and for all applications, it is designed to ensure that you understand the new process and system and specifically that further information may be requested in support of your application.

Knowingly or recklessly giving the Bar Council information which is false or misleading, or failure to inform the Bar Council of materially significant information of which you are aware, may lead to disciplinary action being taken against you.

If the form is not signed, your authorisation will not be granted.

You are expected to have checked the accuracy of the information given in the form before signing. The declaration relates to the whole form.