

REQUIREMENTS FOR PUBLIC ACCESS TRAINING PROVIDERS

1. Purpose of document

1.1 The purpose of this document is to provide organisations interested in providing public access training with information about the new requirements for such training, and further information about our expectations of training providers and the courses they deliver.

2. Background

2.1 The public access scheme has been running since 2004. Training is currently offered by a number of providers.

2.2 The BSB has reviewed the training requirements following its review of the public access scheme, which took place in 2016-17. One of the objectives of the review was to assess how well the public access training regime prepares barristers for public access work and what, if anything, should be added to the training course so that all public access barristers are well prepared to undertake public access work. The BSB's evidence gathering included:

- Commissioning, jointly with our oversight regulator the Legal Services Board, an independent research specialist to undertake supply-side research into the public access scheme, surveying and interviewing public access barristers; and
- Assessing the current public access training according to a three-part framework: (i) review of training providers' annual quality assurance reports, (ii) observation of the training courses and (iii) obtaining feedback from providers and trainees.

2.3 The intention has been to ensure that the training remains fit for purpose, prepares barristers to undertake public access work and provides them with an opportunity to demonstrate achievement of identified learning outcomes. Prescriptive requirements have been kept to a minimum so that providers have the flexibility to design a range of innovative training programmes. However, there are some new training requirements as a result as of the review of training.

3. Training requirements

3.1 Public access training courses must meet the following requirements:

- Training courses must be designed to deliver the outcomes attached at **Annex A**.
- Adequate accommodation and resources must be made available to support those undertaking the training.
- Training courses must involve an assessment designed to ensure the required learning outcomes have been achieved and associated knowledge, understanding and skills obtained.
- Training providers must put in place appropriate quality assurance arrangements to maintain the standard of training and assessments.
- Training providers must have arrangements for dealing with trainees' complaints and any appeals against failure of the training. Information about complaints received and appeals made should be submitted to the BSB in advance of annual quality assurance meetings with the BSB. A pro forma can be found at **Annex B**.
- Training providers must put in place arrangements to monitor and address equality and diversity issues. Information about reasonable adjustments made to facilitate access to training and assessments, and the outcomes of equality and diversity

monitoring, should be submitted to the BSB in advance of annual quality assurance meetings with the BSB. A pro forma can be found at **Annex B**.

3.2 As a result of the review of training, we have also introduced a number of new requirements. These are designed to ensure that public access training remains robust, rigorous and up to date. The new requirements are as follows:

- The teaching and learning methods must use a diverse and innovative range of approaches, encourage trainee centred/active learning and include opportunities for trainees to practise the delivery of public access services; and
- The teaching and learning now also requires trainees to:
 - Know and understand how the BSB Handbook applies to using advertising and marketing services, and using third party introducers to obtain work;
 - Be aware of the importance of keeping public access knowledge and practice up to date through the [BSB's Continuing Professional Development scheme](#) (including as it relates to barristers' specific practice areas);
 - Understand how to identify and manage risks in respect of client service and delivery, particularly with vulnerable clients, with appropriate reference to the [BSB's risk-based approach](#);
 - Know and understand how to achieve compliance with the General Data Protection Regulation in the context of public access work;
 - Understand the benefits of obtaining feedback from clients, and the strategies that can be deployed to do so (as set out in the [BSB's guidance](#));
 - Understand the necessary considerations in relation to administering public access work from chambers, including ensuring that clerks and administrators are appropriately experienced/trained;
 - Understand the necessary considerations in relation to administering public access work either as a sole practitioner or outside of chambers, including the need for contingency arrangements;
 - Understand the necessary considerations in relation to pricing and marketing public access work, including the importance to clients of clear price and service information and how approaches might be tailored to different types of client; and
 - From May 2019, understand how to achieve compliance with the [BSB's price and service transparency rules](#) in respect of public access.

4. Further information for training providers

4.1 Introduction

4.1.1 We have sought to avoid prescriptive requirements for the public access training course. However, we are aware that providers will need some guidance about the training and assessment arrangements we expect. The information which follows provides further information about the criteria that we will apply when considering proposals.

4.1.2 We will update and augment this document as appropriate in order to give providers clear and consistent information.

4.1.3 We anticipate continuing to approve a number of different providers to deliver a range of courses, all of which will be designed to deliver the required outcomes and take account of the further information included in this document.

4.1.4 During the approval process we will consider whether a proposal is appropriate, robust and comparable to other proposals that have been agreed. In making this decision we will take account of the following considerations:

- Are the proposed facilities and resources (including any specified training venues or quality requirements for external venues) appropriate and accessible, likely to be adequate for the anticipated number of trainees and in line with proposed teaching and learning methods?
- Will the proposed teaching and learning materials and delivery methods allow trainees to develop the required knowledge, understanding and skills?
- Do the proposed teaching and learning methods use a diverse and innovative range of approaches, encourage trainee centred/active learning and include opportunities for trainees to practise the delivery of public access services?
- Are the proposed methods of assessment reliable and valid means of assessing the learning outcomes?
- Are the proposed quality assurance systems and controls robust and proportionate means of monitoring training, identifying issues and implementing remedial actions?

4.2 The outcomes for public access training

4.2.1 We have sought to avoid setting out detailed and prescriptive learning outcomes for the public access training course. Instead, we have identified outcomes, together with associated knowledge, understanding and skills, which must be delivered through training and assessments. Our intention is to allow providers, who are experts in the design and delivery of training and assessments, scope to develop a range of training and assessment models that meet our requirements. This will allow innovative approaches to be developed, promote competition between providers, and allow barristers seeking training in this area a range of models from which to choose.

4.2.2 The outcomes for public access training are attached for information at **Annex A**. These are designed to:

- inform barristers who are contemplating undertaking public access training what will be expected of them; and
- allow training providers to develop a range of training courses and associated assessments that will deliver the outcomes we require.

4.3 Length of courses

4.3.1 We understand that the length of courses may vary. However, we would normally expect a full course to be not less than 12 hours, in order to appropriately cover the full range of the learning outcomes and to include assessments. All providers will be expected to show how they will ensure that there is enough time to cover all the outcomes, and to ensure that they are covered rigorously and robustly. Where a provider proposes to offer a course of a different duration, we will require them to demonstrate how their proposal would allow trainees to achieve the required outcomes.

4.4 Resources, teaching and learning approaches

4.4.1 We are keen to ensure that those providing training and assessment provide adequate resources for training and use appropriate teaching and learning approaches. We will expect trainers to provide teaching and learning materials that will support trainees. We will require applicants to explain what resources they will make available, and ensure that

teaching and learning materials reflect the current versions of the BSB Handbook, guidance and other BSB resources.

4.4.2 We will expect training accommodation to provide suitable facilities to deliver the proposed training, to be appropriate for the number of trainees and to be easily accessible and conform to equality and diversity requirements. Where a provider intends to use a specific venue for all training, we will expect the provider to explain how the venue is appropriate. Where a provider uses a variety of external venues, we will want to understand what standards it will expect of venues it uses and what steps it will take if these standards are not met.

4.4.3 Providers must use a range of teaching and learning methods, such as self-learning, classroom teaching, case studies, practical activities and role plays. We expect that providers will use a diverse and innovative range of approaches. This should include encouraging trainee centred/active learning and opportunities for trainees to practise the delivery of public access services. If a training provider intends to deliver training online, we will expect the provider to provide details of these arrangements in their application. We will expect applicants to demonstrate how and when each outcome will be taught, so that we can be confident that all the outcomes will be appropriately covered, and that trainees will have opportunities to develop the required knowledge, understanding and skills. We will expect providers to submit examples of teaching and learning materials with their applications so that we can better understand their proposals.

4.5 Assessment

4.5.1 We expect providers to include a final assessment for trainees, and provide guidance on areas for improvement. This should be informed by both the experience of the training and the assessment.

4.5.2 The objectives of the assessment are:

- to support the trainee in the consolidation and validation of the knowledge, understanding and skills they have acquired in the training; and
- to provide feedback that can be used in the further development of the training methodology.

Acceptable performance in the final assessment will be required to complete the course.

4.5.3 Advice on areas for development and improvement should address the following aims:

- To support a self-reflective approach to learning and continual improvement by the trainee;
- To draw individuals' attention to areas of knowledge or skills which, in the professional view of the provider, need further development during their practice; and
- To identify potential opportunities for further improvement on the part of all trainees.

4.5.4 We anticipate that providers will wish to select from a range of assessment techniques, including written tests, multiple choice questions, assessed role-plays or practical activities. We will expect the providers to explain how the outcomes will be assessed, and how any marking scheme will be used to inform the trainee of the strengths and weaknesses of their knowledge. We will expect providers to submit examples of assessments and associated mark schemes with their applications so that we can better understand their proposals.

4.5.5 Providers must identify criteria by which a trainee will be judged to have fallen significantly short of the competence required and thus would be notified that they have not completed the training satisfactorily. The criteria should focus on matters of serious concern which risk public confidence in the training, related to:

- Serious failure to engage with the training, to the evident detriment of the learning experience of the individual and/or others in a group learning environment; and/or
- Serious under-performance in the assessment, indicating a significant lack of capability or willingness to learn.

Providers may wish to offer additional assessment opportunities for trainees who have initially failed training.

4.6 Standards

4.6.1 Training providers will have the flexibility to develop a range of different training and assessment models to address the learning outcomes. However, regardless of the assessment arrangements put in place, we will expect all providers to demonstrate how the required learning outcomes and associated knowledge, understanding and skills (set out in **Annex A**) are met to an adequate standard (including reference to the required assessment, 4.5 above).

4.6.2 Assessing all the knowledge, understanding and skills associated with the learning outcomes may be unrealistic. However, we will expect providers to demonstrate how the proposed assessments will ensure sufficient coverage of these in order to assess the learning outcomes. In considering proposals we will focus on:

- the proposed coverage of the knowledge, understanding and skills associated with the learning outcomes;
- the validity and reliability of the proposed assessment methods; and
- the manageability of the proposed assessment methods.

4.7 Identifying and representing vulnerable clients

4.7.1 A key element of the training outcomes is a strong focus on identifying and representing vulnerable clients. This reflects not only the BSB's regulatory priorities, but also feedback from barristers that help in identifying and responding to the needs of vulnerable clients is key to effective public access training. Trainers must ensure that barristers have the right skills to identify whether a client has the ability, resources and facilities to perform the activities usually undertaken by a solicitor. We appreciate that this is a complex area which will need to be handled in a focused and pragmatic way.

4.7.2 We will also expect providers to explain how they will make trainees aware of the full range of protected characteristics (set out in the Equality Act 2010), how factors relating to protected characteristics under the Act could make clients vulnerable, and how other factors could make clients vulnerable.

4.7.3 We will be interested in the provision of teaching and learning materials that will make trainees aware of charities and other support groups for different types of vulnerable client, so that they will be able to 'signpost' appropriate clients to further help and support.

4.8 Interacting with clients

4.8.1 A key element of public access work is direct interaction and communication with clients. One of the training outcomes focuses on interaction with clients. This reflects not only the BSB's regulatory priorities, but also feedback from barristers that help with client care is key to effective public access training. We will be particularly interested to see how providers intend to embed teaching and learning of the relevant skills in their training courses, and how these skills will be assessed. We would expect this to be a key element of any training course which is submitted for approval.

4.9 Provision of training information

4.9.1 In order to ensure the integrity of the register of public access barristers we will expect providers to maintain information about those who have successfully completed the training.

4.9.2 For each course delivered, providers should notify the Bar Council's Records Office of all those trainees who have successfully completed training. This information should be emailed to the following email address: Records@BarCouncil.org.uk

4.10 Quality assurance

4.10.1 The integrity of the training will depend on appropriate teaching and assessments. Our quality assurance focus will be mainly on annual meetings with the providers, where quality assurance arrangements, the number of trainees which completed the assessment, and pass/fail rates will be discussed. A pro forma which sets out the information which should be submitted to the BSB in advance of annual quality assurance meetings can be found at **Annex B**. We would only undertake further quality assurance actions if these meetings highlighted issues, or we obtained other intelligence about training that required us to seek further information or clarification from the relevant provider.

4.10.2 Consequently, during the application process we will expect providers to explain what quality assurance arrangements they propose for monitoring and reviewing teaching and assessments. We will expect the quality assurance arrangements to be proportionate, and designed to include systems and controls that will allow a provider to:

- review training;
- identify any issues or problems; and
- take remedial action.

4.10.3 When they apply to offer training, providers may wish to consider commissioning independent quality assurance and if so, should provide details of the arrangements for this.

4.11 Complaints and appeals

4.11.1 In making their application training providers will be required to:

- submit their procedure for dealing with trainees' complaints;
- submit their procedure for dealing with trainees' appeals in relation to failure of the training; and
- indicate how they will ensure that trainees know about and are able to access these procedures.

4.11.2 Training providers will be expected to submit information about complaints received and appeals to the BSB in advance of annual quality assurance meetings with the BSB. A pro forma can be found at **Annex B**.

4.11.3 Where the training provider and trainee are unable to resolve a case the parties should agree on the appointment of an arbitrator whose decision will be binding.

4.12 Equality and diversity and reasonable adjustments

4.12.1 In making the application, providers will be required to submit an equality and diversity policy which includes their policy relating to reasonable adjustments. Providers are strongly encouraged to submit their own equality and diversity policy. However, it is permissible for providers to adopt the BSB's equality and diversity policy, provided they also commit to the equality and diversity principles contained within the BSB's Equality and Diversity Strategy and demonstrate in writing how they will apply them. Providers will also be required to confirm that they will equality impact analyse course materials and assessments.

4.12.2 Training providers will be required to monitor the take up of courses by reference to the protected characteristics set out in the Equality Act 2010, to analyse this data and share this information with us. In addition, training providers should monitor the number and nature of reasonable adjustments made to facilitate attendance on training courses and the completion of assessments. This information should be provided to the BSB in advance of annual quality assurance meetings with the BSB. A pro forma can be found at **Annex B**.

4.13 Course cost

4.13.1 It will be a matter for the course providers to set the cost of the course. This information will not influence approval decisions. However, information about costs and take up of any payment plans e.g. which allow trainees to spread the cost of training, will help us to monitor whether costs associated with training are providing value for money, and monitor whether costs are acting as a barrier to public access registration.

4.13.2 When they apply to offer training, providers will be asked to submit estimates of costs to trainees and to explain any payment plans they will make available.

4.14 Number of trainees

4.14.1 The BSB will not specify a maximum number of trainees that can attend the course at any one time; this will be left to the discretion of the training providers. However, considering the required training outcomes we would be unlikely to approve an application that intended to deliver the course with a trainer to trainee ratio of more than 1:15.

Annex A – public access training outcomes

Learning outcomes	Key areas	Required knowledge, understanding and skills Areas to be covered through teaching and learning (cross-references to the BSB's Professional Statement for Barristers are in brackets)
Know and understand the regulatory and legal requirements that apply to public access work	Regulatory and legal requirements	<ul style="list-style-type: none"> • Know and understand how the BSB Handbook applies to public access work, including only taking on cases in which they are competent, acting in clients' best interests, outsourcing (devilling) and handling complaints (1.16) • Know and understand the specific public access rules and guidance and how these apply to their work, including understanding that their function as a barrister is not altered and the rules relating to fees and their calculation (3.6) • Know and understand the rules relating to the conduct of litigation, including the definition of litigation, the BSB's view on what constitutes conducting litigation (as set out in the BSB's guidance on conducting litigation) and the steps that must be followed to gain authorisation to conduct litigation (1.16) • Know and understand how the BSB Handbook applies to using advertising and marketing services, and using third party introducers to obtain work (1.16) • Know and understand how the Money Laundering Regulations 2017 affect public access work (1.3) • Know and understand when the provisions of the Proceeds of Crime Act 2002 apply to public access work (1.3) • Know and understand how the Consumer Rights Act 2015 affects public access work (1.3) • Know that it is mandatory to register with the Bar Council (acting by the BSB) as a public access practitioner before accepting public access instructions (3.6) • As long as public access work is conducted, be aware of the importance of keeping public access knowledge and practice up to date through the BSB's Continuing Professional Development scheme (including as it relates to barristers' specific practice areas) (2.6)

Learning outcomes	Key areas	Required knowledge, understanding and skills Areas to be covered through teaching and learning (cross-references to the BSB's Professional Statement for Barristers are in brackets)
<p>Understand the circumstances when it would be in a client's best interests to refuse instructions or withdraw from a case</p> <p>Understand the relevant considerations for instructions from intermediaries</p>	<p>Acting in the client's best interests – when and when not to act or continue to act</p>	<ul style="list-style-type: none"> • Know and understand the rules relating to public funding and how to apply these to determine whether it is in the client's best interests to take on a case (3.1, 3.6) • Know and understand the circumstances when it would be in the client's best interests to employ a solicitor (3.1) • Know and understand how to identify the factors that determine whether instructions may be accepted from lay clients or their intermediary, including the client's ability to conduct litigation and eligibility for public funding (3.3) • Be able to consider how a case is likely to develop and decide whether or not it would be in the client's best interests for them to accept instructions (3.1) • Know and understand how to identify the factors that determine whether they should continue act for a lay client or their intermediary, including the complexity or time commitment required for a case (3.3) • Know and understand the rules relating to when a public access practitioner may, and must, cease to act and return instructions to a client (3.6) • Be able to manage their own workload and resources to ensure that the best interests of public access clients are served (3.1, 4.2) • Know and understand relevant considerations and issues relating to accepting instructions from an intermediary (3.3) • If a newly qualified barrister with less than three years' standing, know and understand arrangements for seeking advice from a qualified person with experience in public access work (3.6)
<p>Identify and address the needs of vulnerable clients so that they can act in the client's best interests</p>	<p>Identifying and meeting the needs of vulnerable clients</p>	<ul style="list-style-type: none"> • Be aware of (1) how factors relating to protected characteristics under the Equality Act 2010 could make clients vulnerable, and (2) how other factors could make clients vulnerable (2.3, 3.3) • Be aware that refusing to represent a client on the basis of any protected characteristic

Learning outcomes	Key areas	Required knowledge, understanding and skills Areas to be covered through teaching and learning (cross-references to the BSB's Professional Statement for Barristers are in brackets)
		<p>is unlawful under the Equality Act 2010 (2.3)</p> <ul style="list-style-type: none"> • Be aware of the impact their own values and assumptions can have in their dealings with vulnerable clients (unconscious bias) (3.3) • Understand the need to modify how they communicate with clients to take account of the factors which make them vulnerable (3.3) • Demonstrate the ability to respond appropriately and sensitively to the needs and concerns of vulnerable clients (3.3) • Understand how the differing needs and concerns of vulnerable clients can impact upon the management of their case and any further steps that should be taken to ensure that a case is managed in the client's best interests, for example any resources and services available to support vulnerable clients (including the resources referred to in the BSB's Vulnerability Good Practice Guide) (3.1, 3.3) • Understand how to identify and manage risks in respect of client service and delivery, particularly with vulnerable clients, with appropriate reference to the BSB's risk-based approach (3.3, 4.2) • Be aware of the importance of keeping knowledge and understanding of best practice in this area up to date (as long as work in this area is conducted) through the BSB's Continuing Professional Development Scheme (2.6)
Know and understand the skills required for managing cases including writing appropriate letters and keeping files	Systems and administrative arrangements	<ul style="list-style-type: none"> • Know and understand the need to have appropriate systems and administrative arrangements in place for managing public access work, including how to achieve compliance with the General Data Protection Regulation (4.4) • Understand how inadequate systems and administrative arrangements can impact negatively on clients (3.1, 4.4) • Know and understand the features of effective systems and administrative arrangements that should be in place to

Learning outcomes	Key areas	Required knowledge, understanding and skills Areas to be covered through teaching and learning (cross-references to the BSB's Professional Statement for Barristers are in brackets)
		<ul style="list-style-type: none"> deal effectively with the management of a case (4.2, 4.4) • Understand the necessary considerations in relation to administering public access work from chambers, including ensuring that clerks and administrators are appropriately experienced/trained (4.4) • Understand the necessary considerations in relation to administering public access work either as a sole practitioner or outside of chambers, including the need for contingency arrangements (4.4) • Know and understand the insurance and indemnity arrangements that should be put in place (1.16) • Know and understand how to apply model client care letters for use with lay clients and/or their intermediaries, including how these might need to be amended for vulnerable clients e.g. having them translated or printed in a larger font (3.3) • Demonstrate the ability to draft clear and appropriate letters for use with lay clients or their intermediaries (3.3) • Understand the importance of having a clear policy for dealing promptly and efficiently with client's complaints (1.16) • Understand the importance of communicating and ensuring that clients have understood their complaints policy (3.1) • Understand the necessary considerations in relation to pricing and marketing public access work, including the importance to clients of clear price and service information and how approaches might be tailored to different types of client (3.3) • From May 2019, understand how to achieve compliance with the BSB's price and service transparency rules in respect of public access (1.16)
Interacts appropriately and effectively with lay clients in:	Dealing with clients	<ul style="list-style-type: none"> • Understand the need to provide clients or their intermediaries with clear information that allows them to make informed decisions about the conduct of their case and the possible consequences (3.3)

Learning outcomes	Key areas	Required knowledge, understanding and skills Areas to be covered through teaching and learning (cross-references to the BSB's Professional Statement for Barristers are in brackets)
<ul style="list-style-type: none"> • Making initial contact and establishing a relationship • Discussing, explaining and agreeing fees • Explaining the role of a barrister and discussing whether it might be in the client's best interests to instruct a solicitor 		<ul style="list-style-type: none"> • Communicate appropriately and sensitively with clients or their intermediaries, using verbal and non-verbal forms of communication, to explain their role, the services they can provide (including reference to rules relating to the conduct of litigation) and manage expectations (1.16, 3.3, 3.5) • Respond appropriately to issues and concerns raised by clients or their intermediaries (3.3) • Demonstrate effective and appropriate skills in communicating advice and information to clients and their intermediaries (3.3) • Be able to deal with difficult and unfamiliar situations appropriately, including declining instructions, seeking to withdraw from a case, handling complaints and dealing with vulnerable clients (3.3) • Understand the benefits of obtaining feedback from clients, and the strategies that can be deployed to do so (as set out in the BSB's guidance) (2.5)

Annex B – quality assurance pro forma

This pro forma must be completed by training providers and submitted to the BSB in advance of annual quality assurance meetings with the BSB.

Quality assurance arrangements

Have you, as a result of your quality assurance arrangements, made any changes to the training in the past year? If yes, please provide details.

Have you made any other significant changes to the training in the past year? If yes, please provide details.

Complaints and appeals

Have you received any complaints from trainees in respect of the training in the past year? If yes, please provide details and outline the steps you have taken to address those complaints.

How many trainees completed your assessment in the past year, and what was the pass/fail rate? Please provide details.

Have any appeals been made against failure of the training in the past year? If yes, please provide details, including the outcome of the appeal(s) if known.

Reasonable adjustments

Have you made any reasonable adjustments to facilitate access to training and assessments in the past year? If yes, please provide details.

Equality and diversity monitoring

Have you monitored the take up of courses by reference to the protected characteristics set out in the Equality Act 2010 over the past year? If yes, please provide a summary of the data.

Have you, through this equality and diversity monitoring, identified any equality and diversity issues in respect of the training in the past year? If yes, please provide details and outline the steps you have taken to address those issues.