

# BAR STANDARDS BOARD

REGULATING BARRISTERS

## Continuing Professional Development (CPD) Guidance for barristers



## Introduction

1. This guidance explains the Bar Standards Board's (BSB) new Continuing Professional Development (CPD) regime for barristers on the **Established Practitioners Programme (EPP)**. The guidance is designed to provide practical support to help you complete your requirements. It has been designed with the assistance of barristers from a range of seniority levels and practice areas.
2. This guidance should be considered as supplementary to the provisions in the BSB Handbook Part 4 [at rules rQ130 – rQ138 and guidance gQ1-gQ5, the text of which will be added to the Handbook with effect from 1 January 2017 and which you will find as an Annex to this Guidance for convenience]. You are required to have regard to this guidance when complying with the CPD rules. Where it refers to a rule, it describes an essential requirement. Otherwise it gives examples of good practice or suggests how you might meet the outcomes required by the rules. These illustrations are not mandatory, but if you choose to take a different approach, the BSB may ask you to demonstrate how you feel you have adequately achieved what is required by the rules.
3. The CPD regime for Established Practitioners will change with effect from 1 January 2017. From this date you should comply with the new CPD requirements.
4. The guidance will be reviewed during the operation of the new approach to CPD. You are encouraged to share your feedback with us. To do so, you should contact [cpdrecords@BarStandardsBoard.org.uk](mailto:cpdrecords@BarStandardsBoard.org.uk). We are keen to ensure that the guidance is as helpful as possible and will update and refine it in the light of comments and suggestions received.

## What about the New Practitioners Programme (NPP)?

5. The requirements for new barristers are not changing save for the fact that their CPD activities will no longer need to be accredited. **NPP** barristers will continue to follow the current CPD requirements. This means that those barristers in their first three years of practice will continue to follow the NPP which requires them to complete 45 hours of CPD including at least 9 hours of Advocacy Training and 3 hours of Ethics.

## The CPD definition

6. rQ130.2 defines CPD. CPD is work undertaken over and above your normal commitments as a barrister. CPD is undertaken with a view to developing your skills, knowledge and professional standards in areas relevant to your present or proposed area of practice. This is in order to keep yourself up to date and maintain the highest standards of professional practice.
7. The definition of CPD has not changed from the previous one. However, the EPP requirements and assessment process have changed.

## How has the EPP changed?

### Summary of changes

- There is **no** minimum number of hours that you need to complete.
  - You now have individual responsibility for deciding what training you require.
  - There is no longer a requirement to complete accredited hours.
  - You have increased flexibility in the types of CPD activities that you can complete.
  - We will assess whether you have planned and completed your CPD in a structured way.
  - Assessments of CPD will be made with regard to what CPD has been completed in previous years.
8. The role of our supervision team in setting Corrective Action for non-compliance has been formalised. This means that the focus on the regulation of CPD will not be on disciplinary action but on ensuring that you comply with the CPD requirements. We hope that this will be a more effective approach as well as being a more proportionate use of our resources.
  9. We will monitor CPD by spot checking. The focus will be on barristers who are at higher risk of non-compliance with their CPD requirements, supplemented with a random sample of the profession. High risk will be established, amongst other things, with reference to a barrister's history of compliance.
  10. Non-compliance will generally be dealt with in the first instance through supervisory action. This will include recommendations (referred to in this guidance as 'corrective action') where you appear not to have met the requirements of the rules.
  11. Referral to enforcement action will be reserved for persistent non-compliance or non-cooperation.

### **Why have these changes been made?**

12. The BSB has a statutory obligation to give the public assurance that barristers are competent, up to date and maintain high standards of work. Our regulatory framework for CPD is an important way in which we do that. We want the new scheme to be:
  - Less prescriptive
  - More flexible
  - More suited to your actual training needs
  - Less likely to result in irrelevant CPD activities being completed
  - Less likely to result in disproportionate supervision and enforcement action being taken for non-compliance
13. In addition the new regime will ensure that the CPD requirements help you to maintain high standards of practice. We have done this by creating a more proportionate and targeted approach to CPD, focusing on the quality of what is to be achieved. This is a departure from the previous more prescriptive approach.
14. The new CPD scheme puts in place a structure that allows you to determine your own professional development requirements for the year more efficiently. It also allows us to assess whether you have planned and completed your CPD in a structured way.
15. The change to CPD is in line with what is regarded as best practice for regulation of professional services. It will provide greater assurance to the public that the profession is meeting their expectations, and that the regulator is fulfilling its obligations as well.

### **Benefits of the new CPD Scheme**

- There is no need to complete a minimum amount of CPD, nor any amount of accredited CPD. This could save you time and money as you do not need to attend courses just to complete 12 hours of CPD.
- There is no incentive to complete irrelevant CPD activities.
- The types of CPD available are more flexible. For example, there is no restriction on the amount of legal writing which can be completed.
- The scheme takes into account CPD completed in previous years. This means CPD can be planned with anticipated workload in mind and varied with actual workload, and can be directly carried over between years.
- There is no longer an extension or waivers process. If your circumstances mean that less CPD needs to be completed due to, for example, maternity leave, ill health or another reason, then this only needs to be noted on your CPD plan. This means that the regulation is less bureaucratic and more responsive to changing circumstances.

- As a result, the BSB will be able to spend more time focussing on “High Risk” barristers and those who are not engaging with the CPD process or not completing appropriate CPD

### The CPD cycle

16. rQ134 of the Handbook sets out the four stages an EPP barrister must complete to be compliant with their CPD requirements.
  - Stage 1: “REVIEW” Planning;
  - Stage 2: “RECORD” Recording and evidence;
  - Stage 3: “REFLECT” Reflecting on your CPD activities;
  - Stage 4: “REPORT” Declaring completion.
17. In the following section we provide a practical example of how you can meet the different stages in the planning, recording, reflection and declaring cycle for CPD.
18. **REVIEW** During the planning stage you should complete a plan of the CPD that you are going to undertake. It is a requirement that you do this by setting learning objectives (see pages 4-12 for more information; rQ134.1) which should provide specific aims and outcomes of the CPD you plan to undertake. It is a requirement that you also provide examples of the types of CPD activities that you are proposing to undertake
19. **RECORD** During the recording and evidence phase you should complete CPD activities and keep a record of them. (rQ134.2; rQ134.3 and.4)
20. **REFLECT** The reflection phase takes place once the CPD activities have been completed for the year. (rQ134.3)
  - We do not specify a process for the reflection stage, but good practice reflection involves considering how you have implemented the learning from the activities you have done, reviewing your development in the light of this and then considering what further CPD you need. It could include noting:
    - Which learning objectives you completed, and how the activities you completed met your learning objectives
    - Which learning objectives you did not complete and the reasons why not,
    - Which learning objectives you changed,
    - What you need to complete in future years.

21. **REPORT** Finally you should make a formal declaration that you have completed your CPD requirements. (rQ134.5). This declaration is made as part of the Authorisation to Practise process at the end of the year in a similar manner to the old system, when you renew your Practising Certificate.
22. Your compliance with the CPD scheme will continue to be monitored and assessed by us via spot checking. However, our role in setting Corrective Action for non-compliance has been formalised. Referral to enforcement action will primarily be reserved for persistent non-compliance or non-cooperation.

## Stage one: "REVIEW" - Planning

### Setting learning objectives

23. rQ134.1 requires you to determine the **learning objectives** you intend to complete during the calendar year.
24. The Handbook defines a learning objective as; **"a statement of what a barrister intends to achieve through their CPD activities for that calendar year with reference to a specific aim and one or more outcomes."** (rQ130.8)
25. In other words a learning objective is a statement of what you hope to achieve through your CPD activities and an explanation of why you want to achieve it.
26. Learning objectives should have an aim and one or more outcomes. It is good practice for a learning objective to be specific and measurable.

#### **An example of a good learning objective:**

"To become qualified to provide direct access advice to the public to improve my ability to provide advice to a wide range of clients and deliver a cost-effective service to lay clients".

"...become qualified to provide direct access advice to the public" is a specific aim.

"...improve my ability to provide advice to a wide range of clients" is an outcome

"...deliver a cost-effective service to lay clients" is a second outcome

### What to consider when planning your learning objectives

27. Learning objectives should describe what you want to be able to do, or what you want to know and understand, that you couldn't do, or didn't know and understand before.

28. Good practice when planning your learning objectives and the range of CPD that you plan to carry out, would be to consider the following knowledge and skill areas:

- Legal knowledge and skills
- Advocacy
- Practice Management
- Working with clients and others
- Ethics, professionalism and judgement

29. Considering these areas demonstrates that the CPD plan has been completed in a structured way with a view to developing your skills, knowledge and professional standards in line with the Handbook definition of CPD.

30. You may find the BSB Professional Statement is a useful reference point as well.

[https://www.barstandardsboard.org.uk/media/1787559/bsb\\_professional\\_statement\\_and\\_competences\\_2016.pdf](https://www.barstandardsboard.org.uk/media/1787559/bsb_professional_statement_and_competences_2016.pdf)

<b>Legal knowledge and skills</b>	<p>It is a Handbook requirement (Part 2 of the BSB Handbook) that you must not provide services to clients beyond your competence.</p> <p>In general, the more areas of law in which you hold yourself out as practising, the greater the need for CPD. It is good practice to assess:</p> <ul style="list-style-type: none"> <li>• If you are competent to offer services in any particular field of law;</li> <li>• The specific areas of development which are required;</li> <li>• The type and breadth of CPD that you require in order to maintain a sufficient level of legal knowledge and skills in these areas.</li> </ul>
<b>Advocacy</b>	<p>Being able to provide good quality advocacy services is a central skill for the vast majority of barristers across every practice area.</p> <p>You should be able to provide a level of advocacy appropriate for your practice, level of seniority and experience.</p> <p>This may include such topics as the ability to:</p> <ul style="list-style-type: none"> <li>• Cross examine witnesses</li> <li>• Submit pleas in mitigation</li> <li>• Make use of skeleton arguments</li> <li>• Make appropriate oral submissions.</li> </ul>



## Practice management

It is a Handbook requirement (Core Duty 10) that you 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.

This can be fulfilled in the context of CPD by considering such topics as:

- Financial management;
- Risk management;
- Money laundering regulations
- Management of employees
- Management of working environment including managing work related anxiety and mental health concerns.

Your approach to CPD in relation to the way you manage your practice will depend upon the nature of your practice.

When considering practice management requirements you may wish to take into account your type of practice and role in practice when choosing your CPD activities.

### **By types of practice we mean:**

- Self-employed sole practitioner
- Self-employed in Chambers
- Employed as in-house counsel
- Employee or manager of an authorised entity
- Dual capacity.

### **By roles in practice we mean:**

- Head of Chambers
- Tenant
- Pupil Supervisor
- Pupillage Recruitment Manager
- Owner or manager of a BSB authorised entity

## Working with clients and others

When considering your training requirements with regard to how you work with clients and others you may wish to assess whether you have the knowledge and skills to:

- Communicate effectively with all clients and others orally and in writing.
- Give clear and comprehensible advice to professional and lay clients.
- Be transparent about the basis of your instructions and your fees
- Understand the procedures and techniques necessary to work with vulnerable victims and clients as appropriate to your practice.

	<p><b>Equality and diversity</b></p> <p>You should consider the Core Duties when determining your CPD requirements with regard to equality and diversity. CD 2, 5 and 8 may be relevant.</p> <p>It is good practice to consider whether you understand:</p> <ul style="list-style-type: none"> <li>• The implications for your practice of equality and diversity legislation and regulations</li> </ul> <p><b>Public access</b></p> <p>If you wish to conduct public access work you are required to complete BSB authorised training in order to do this. (rC120)</p> <p>This training can count towards CPD in the year when you undertake your initial training. You may wish to consider in subsequent years whether you need to keep this knowledge up to date or otherwise focus on the needs of your public access clients in determining your CPD requirements.</p>
<p><b>Ethics, professionalism and judgement</b></p>	<p>When considering your training requirements with regard to ethics, professionalism and judgement you should be familiar with your regulatory duties and our outcomes-based approach to regulation.</p> <p>You may wish to consider your training requirements with regard to:</p> <ul style="list-style-type: none"> <li>• Conflicts of interest</li> <li>• Client confidentiality</li> <li>• Your duties to the court</li> <li>• Money laundering legislation.</li> </ul> <p>You may also wish to consider:</p> <ul style="list-style-type: none"> <li>• Your ability to act confidently in your legal practice</li> <li>• Your approach to your work and your ability to correct errors or admit your limitations</li> <li>• Your interpersonal skills</li> <li>• Issues of equality and diversity within your practice</li> </ul>

## Type and nature of CPD

31. rQ134.1 requires you to set out the type of CPD activities you intend to complete in order to meet your learning objectives. It is good practice to complete a variety of different types of CPD activities. This might include different activities such as lectures, workshops, podcasts, reading etc.
32. You do not need to note specific CPD activities you intend to complete. For example, it is not necessary to record in your Plan that you are going to complete a course on a particular date presented by a particular provider.
33. When planning your CPD we recommend that you consider the amount of CPD that would be sufficient. There is no prescribed minimum amount of CPD. Your own circumstances, seniority or practice area and type may be relevant.
34. In some exceptional circumstances, for example where a senior barrister is completing an exceptionally large and complex case, it may even be appropriate not to complete CPD activities during the year on the basis, for example, that the research done during the case represents a substantial development in the practitioner's skills and knowledge. If this is the case, the rationale should be recorded and reviewed at the end of the year.

## Examples of CPD Plans and learning objectives

### **Examples of compliant CPD Plans**

The following four examples of CPD Plans would be assessed as compliant with the requirements. **Assessment comments** have been added to each example to highlight key points about why the example would be considered compliant. You

should note that these are illustrative examples that reflect an individual barrister's CPD requirements.

### **Example one**

#### **Learning Objectives**

##### **Legal Knowledge and Skills**

- 1) To improve my knowledge of non-contentious employment matters so that I can deliver more effective advice to clients about risk management.
- 2) To undertake mediation training so that I can provide a wider range of services.

##### **Practice Management**

- 3) To increase my knowledge and awareness of different funding products and fee structures for clients. This will allow me to provide better access to justice through a fairer and more cost effective fee structure

#### **Describe the type and nature of CPD you intend to undertake; include how that will support achievement of your learning objectives**

I intend to undertake a broad range of CPD which will incorporate:

- Online podcasts and webinars.
- Preparing and giving my own seminars to lay and professional clients
- Attendance at "live" seminars and lectures.

This will allow me to obtain CPD from recognised experts in the relevant fields (who may be based some distance away), provide me with an opportunity to carry out my own research and cement my understanding of particular topics. It will also enable me to engage with seminar providers to ask relevant questions on matters that may be particular to my own practice.

##### **Assessment comments**

- **These learning objectives are concise but explain both the aim and the outcome of the learning objective.**
- **Note in particular that the first learning objective has a fairly wide aim (increasing knowledge of non-contentious employment matters). However a specific outcome is provided 'So that I can deliver a more effective risk management service to clients'**
- **A different barrister could have the same aim but a different outcome eg 'So that I am more confident in providing advice to commercial clients about drawing up redundancy policies'**

## **Example two**

### **Learning objectives**

#### **Legal Knowledge and Skills**

- 1) To deepen my understanding of the international law elements of my practice so that:
  - I know the rules by which evidence can be obtained and used in court proceedings from other countries.
  - I know the practice procedures and legal principles in the international courts in which I intend to develop my practice.
- 2) To update my knowledge of recent judgments in the field of professional discipline in order to better comply with regulatory requirements.

#### **Practice Management**

- 3) To understand the changes in regulation being undertaken by the BSB in relation to practising in Chambers within a limited company, in order to deliver a cost effective service to clients.

#### **Ethics and professionalism**

- 4) To deepen my knowledge and understanding of the BSB Handbook as it applies to self-employed barristers so that I am complying with the regulatory requirements and particularly that I am administering my practice effectively.

#### **Describe the type and nature of CPD you intend to undertake; include how that will support achievement of your learning objectives**

- 1) To conduct regular Westlaw searches of regulatory judgments and receive bulletins of the same. Seek to engage with a casebook author to assist in publication of an updated version.
- 2) To attend lectures and seminars on cybercrime and terrorism, ideally coordinated by recognised international public or academic institutions.
- 3) Review the training materials by UK governmental bodies on the use of International Letters of Request and mutual legal assistance treaties.
- 4) Review the BSB guidance and seek professional advice on the impact of practising as a limited company.
- 5) Review the BSB rules and guidance surrounding marketing of barristers' services. Review and re-work current marketing materials.
- 6) Teach two sessions at my Inn's course on Ethics for New Practitioners.
- 7) Teach a session at my Chambers training for pupils. This will require me to refresh my knowledge of the Handbook by preparing for the session and will require me to reflect on ethical issues through leading an interactive session.

### **Assessment comments**

- **These learning objectives are all related to the specific CPD knowledge areas. They also provide detailed activities and specific outcomes.**
- **Note that objective 1 has two distinct outcomes associated with it. It is not necessary to create a large number of different learning objectives when there are a few aims with multiple outcomes that will be achieved.**
- **The barrister is rightly using teaching and presenting seminars and other CPD activities as a way of completing their own CPD. Providing CPD activities for others generally requires a barrister to refresh their own knowledge of the subject area by preparing for the new sessions. It can sometimes also allow the barrister to learn from other trainers or practitioners at the session**

### **Example three**

#### **Learning objectives**

##### **Legal Knowledge and Skills**

- To maintain knowledge and understanding of my main practice areas. This is to ensure that upon returning to work from maternity leave I am not behind with any new authorities.
- To continue to develop knowledge, awareness and experience in the cross over between criminal prosecution and the regulation of care homes under the Care Quality Commission, so that I can undertake general instructions in this area to which I am new.

##### **Advocacy: Oral and Written**

- Refresh my advocacy skills in order to ensure I am up to date with current advocacy techniques.

##### **Practice Management**

- As a member of the employed Bar I wish to focus my Practice Management training on the skills and knowledge needed to manage a team of legal service providers including other qualified persons and paralegals.

I hope the outcome of this training is that I can help my team to provide a better standard of service to clients and also that I am more aware of the responsibilities I have in the context of my role in practice as a manager in ensuring that my practice is managed in an effective manner.

- To improve my IT skills in order to ensure I am complying with information security best practice.

#### **Describe the type and nature of CPD you intend to undertake; include how that will support achievement of your learning objectives**

- Attend seminar on regulation of care homes.
- Audio lectures on Advocacy techniques certified by the Circuits or Inns of Court.
- Volunteer to help organise my Inn's training day on Criminal Advocacy and help deliver training during the day.
- In house training workshops
- Formal recorded peer to peer reviews
- Podcasts
- Attend lectures relating to information security best practices.

##### **Assessment comments**

- **The aim of the first learning objective 'to maintain knowledge and understanding of my main practice areas' is quite generic in nature. However it also relates to a specific training need and outcome**

**identified by the barrister because of their circumstances, in this case maternity leave.**

- **Again the aim of the second learning objective is quite generic. However the outcome relates to a specific circumstance of the barrister. In this case their seniority and level of experience.**
- **The third learning objective relates to specific practical skills that the barrister wants to improve. Once again the aim of this learning objective (improving IT skills) is broad and could have had a range of different outcomes. Eg 'So that I am able to deliver a high quality and cost effective service to both professional and lay clients.**
- **Objective four is a type of activity (personal management training) that would previously not have been permitted. However it is clearly important and relevant training for some barristers including members of the employed Bar and describes both an aim and an outcome**



## **Example four**

### **Learning objectives**

#### **Practice Management**

- 1) To ensure that my knowledge of the rules which are ancillary to my main areas of practice are fully up to date, specifically continuing changes to Civil Procedure Rules and Costs rules
- 2) To improve client care by enhancing in-Chambers record keeping and communication of advice with Direct Access clients.  
This will ensure that:
  - Advice has been understood by clients.
  - Client questions/issues have been addressed and/or resolved.

#### **Legal Knowledge and Skills**

- 3) To enhance existing qualifications/ maintain accreditations as mediator/ mediation advocate /continuing direct access authorisation
- 4) To further develop knowledge of core subject areas of practice, focusing this year specifically on trusts and trustees and obligations of attorneys acting under an LPA

### **Describe the type and nature of CPD you intend to undertake; include how that will support achievement of your learning objectives**

**Objective one** to be met by attendance at a professional one day CPD course on each of these two subjects.

**Objective two** to be met by attendance at a professional one day CPD course.

**Objective three** to be met by arranging one to one training by a suitably qualified provider.

**Objective four** to be met by attendance at Chancery Bar Association accredited seminar(s), then detailed research and study.

#### **Assessment comments**

- This plan lists four detailed specific learning objectives which have measurable clear outcomes. These learning objectives are related back to the CPD knowledge areas and the types of activities the barrister intends to undertake.
- Objective two relates to the barrister changing Chambers' record keeping systems. Depending on the barrister's position in Chambers (ie a Head of Chambers) this could fall within scope of CPD.

## Examples of non-compliant CPD Plans

The following two examples of CPD Plans would be assessed as non-compliant with the requirements. **Assessment comments** have been added to each example to highlight key points about why the example would be considered non-compliant.

### **Example five.**

#### **Learning objectives**

- 1) To improve knowledge of Commercial Law
- 2) Attending lectures in person and online

#### **Assessment comments**

- The second learning objective actually describes the type and nature of the CPD activities the barrister intends to carry out.
- This plan does not provide a specific measurable learning objective which has either an aim or an outcome. (rQ134.1)
- There is no plan as to how the CPD will be structured or how attending the lectures in person or online will support the learning objective.
- The learning objectives are not linked back to the suggested CPD areas so there is no structure or coherence in the Plan.

### **Example six.**

#### **Learning objectives**

- 1) To ensure I am up to date with the legal developments, practice and procedure in my area of work and to understand the most current thinking of specialists in my area of work.

#### **Assessment comments**

- This plan provides only a single learning objective. The learning objective does not provide any detail as to the particular practices or procedures the barrister needs to keep up to date with.
- Understanding the current thinking of specialists in the area of work could be a worthwhile learning objective. However in this case there is no further detail added. For example there are no outcomes associated with it and no explanation of activity proposed.

## Stage two: "RECORD"- Recording and evidence

35. During stage two in order to comply with rQ134.2 you will record the relevant CPD activities that you have completed that have met your learning objectives.
36. It is good practice for the record of your CPD activities to include:
  - Title/description of your CPD activity;
  - Date (or date range) of your activity;
  - Type of CPD activity;
  - CPD provider (where applicable);
  - Knowledge area the CPD activity relates to
  - Learning objective(s) met by the CPD activity;
  - Reflection on your CPD;

### Scope of CPD

37. A non-exhaustive list of CPD activities includes:
  - Taking part in formal face-to-face training courses, including university courses;
  - Online courses;
  - Podcasts;
  - Attending conferences;
  - Taking part in seminars or webinars;
  - Reading or research;
  - Authorship and editing of published works of a professional nature. This could include exam papers; substantial consultation responses; law reform proposals; professional updating e-zines / blogs;
  - Presenting seminars, lectures and workshops;
  - Teaching a relevant legal course eg LLBs, LLMs, the GDL, BPTC, LPC or Diplomas in Law.
38. The following activities do not count towards CPD:
  - Work completed as part of routine practice, including *pro-bono* or volunteer legal case work;
  - Research completed as part of routine practice, including *pro-bono* or volunteer legal case work;
  - Updating social media accounts including twitter;
  - Following a social media account;
  - Blogging unrelated to your current or proposed practice;
39. We encourage you to carry out a wide variety of CPD activities.
40. Each barrister's practice is different, so we do not prescribe one structure or amount of CPD to be carried out by all members of the profession.

## Evidence

41. You are encouraged to keep a note or evidence of the CPD activities that you have completed over the past three years of practice.
42. We recognise that retaining evidence may not always be practicable; that is why we are not making it a *requirement* to do so. However, if you are spot-checked you will be asked to demonstrate that you have completed the CPD you have recorded and will be asked to produce any evidence that you have retained or take steps to acquire it. The onus will be on you to demonstrate that you have undertaken the CPD that you say you have.
43. Your evidence may include:
  - An attendance record;
  - A certificate of completion/achievement;
  - Confirmation of results;
  - Notes compiled undertaking research or reading;
  - A sample of credited published journals/articles;
  - Counter signed CPD Plan and Record card by a peer or responsible officer within Chambers.
44. This should not be considered an exhaustive list of what may be considered evidence of completion.

## Stage three: "REFLECT" - Reflecting on your CPD activities

45. In order to comply with rQ134.3 you are required to reflect on the CPD activities you have planned and completed throughout the year, in particular focusing on any variations of your planned CPD activities and what your assessment of future learning objectives is. You are also required to keep a written record of your reflection for three years.
46. A recommended way to complete this stage is to evaluate the extent to which your planned activities have met your learning objectives – after each CPD activity and in any event at the end of each CPD year. This is a useful exercise to:
  - Maximise the effectiveness of your learning and embed it into your practice;
  - Make sure you can adapt your CPD throughout the course of the CPD year to achieve your desired learning objectives; and
  - Help inform learning objectives for future years.

47. This is also an opportunity for you to change the course of your planned CPD if your circumstances change during the year. The reflection should assist you to set your development priorities for the following year. You may find it useful to consider how you have embedded the learning in your practice, whether it was an effective way of meeting your learning objectives and whether the original learning objectives remain valid. We will update guidance on reflection as practitioners give us feedback on what would works well.
48. It is good practice for the reflection to consider:
- Why any learning objectives were varied, and which are outstanding;
  - How you intend to complete outstanding learning objectives that are still relevant;
  - Whether the type and nature of the activities completed helped in completing the learning objectives.

#### Stage four: "REPORT" - Declaring completion

49. You must make a declaration of completion of CPD each year. (rQ134.5)
50. The CPD year runs from 1 January to 31 December. So you will be able to declare whether you have completed the requirements for the prior CPD year as you complete Authorisation to Practise requirements to renew your Practising Certificate (which require action in February and March).

#### How we assess your CPD

51. We will assess your CPD Plan and Record based on all four stages of the CPD cycle and in accordance with assessment criteria.

#### **Planning stage assessment**

52. We are assessing that you have planned your CPD in a structured way that reflects the CPD rules.
53. We will check:
- That you have considered your requirements with regard to the definition of CPD and particularly skills, knowledge and professional standards. The four recommended CPD knowledge areas in which CPD activities could be undertaken cover these requirements (but you may take your own approach and the Professional Statement may be of assistance):
    - Legal knowledge and skills
    - Practice management
    - Working with clients and others
    - Ethics and professionalism
  - That you have set yourself relevant learning objectives with specific aims and outcomes;
  - That you have considered how your learning objectives and proposed CPD activities are relevant to your practice;

- That you have evaluated your own strengths and weaknesses in order to keep yourself up to date and maintain high standards of professional practice.

### **CPD activities assessment**

54. We will:

- Review the relevance of the CPD activities you have carried out against the area of practice you undertake and the learning objectives you recorded at the planning stage;
- Consider your experience (compared to the activities carried out and the type of CPD activities you completed in previous years).

55. You will not necessarily be non-compliant if there is a variation between the learning objectives at your planning stage and the CPD activities you have completed. However, any differences that have arisen should be noted and addressed in the reflection stage.

56. Equally, carrying out a large number of CPD hours by itself, without the planning and reflection elements, does not guarantee compliance.

### **Reflection stage assessment**

57. We will assess whether you have followed a structured process in complying with rQ134.3.

58. We will check:

- That you have reflected on how your activities have met your original learning objectives;
- Whether any variations between learning objectives and activities occurred.
- Your assessment of future learning objectives.

## **Declaration stage assessment**

59. We will check that you have made a declaration of your completion of the CPD requirements. (rQ134.5). We will do this when you complete authorisation to practise procedures.

## **The assessment criteria**

60. The CPD assessment criteria will examine each of these areas using a risk-based outcomes-focused framework. This means that the Plan and Record / Reflect document/s are evaluated as a whole for compliance. Failure to complete individual elements of the process will not automatically lead to an assessment of non-compliance.

### **Examples that may lead to an assessment of non-compliance:**

- CPD activities that are obviously not relevant to your practice or proposed area of practice
- Completing a minimal amount of CPD over a number of years, with no justification of this in your learning objectives
- Completing exactly the same CPD activities over a number of years with no adequate justification (eg attending the same 'Introduction to Advocacy' course over a ten year period or completing a CPD activity that is clearly below your level of expertise)
- Disregarding the CPD process.

## **Our supervision and enforcement approach**

61. You will have a wide discretion as to the amount and type of CPD you complete. It is hoped that by following the structure in this guidance you will be compliant with your CPD. However, in some instances the Plan, activities or reflection you have completed may not be assessed as compliant.
62. When you are assessed as non-compliant the CPD assessment team will try to use supervision to ensure compliance. It is anticipated that enforcement action will occur only in cases where a barrister does not engage with supervision or is repeatedly non-compliant.
63. Here is a summary of the approach that we will take to supervision and enforcement:
1. Barrister is selected for a spot check- this could be at any time in the annual cycle.
  2. Barrister submits CPD Plan and Record document as requested.
  3. CPD Assessment Team assesses Plan and Record document.
  4. CPD Assessment Team may assess CPD as:
    - (i) Compliant.
    - (ii) Compliant but feedback needs to be given
    - (iii) Non-compliant.
  5. If the CPD Assessment Team identifies non-compliance, then in most cases a Corrective Action plan will be set for the barrister.

6. If a barrister satisfactorily completes Corrective Action, CPD requirements are noted as completed and no further action will be taken. However, a barrister is likely to be checked again in future to ensure ongoing CPD compliance.
7. If a barrister does not complete Corrective Action or has repeatedly been assessed as non-compliant then the barrister will be referred for consideration of enforcement action

### **Detail of Supervision and enforcement process**

64. Where an assessment of non-compliance is made – for example if we are not satisfied that the completed CPD activities are relevant to your stated learning objectives – the CPD Assessment Team will, in the first instance, deal with this through feedback and Corrective Action.

### **Corrective Action**

65. Corrective Action is used by us to address identified non-compliance with the CPD requirements. It is a remedial approach that aims to avoid the need to take enforcement action.
66. The range of Corrective Actions could include, but is not limited to:
  - Carrying out a particular type of CPD activity;
  - Expanding on your planning or reflection stage (either in the current CPD year or for future CPD years);
  - Confirming your area of practice or proposed areas of practice;
  - Confirming that you have understood and acknowledged any feedback provided as part of the Corrective Action.
67. When you have been set Corrective Action you will be informed of this along with any associated deadlines.

### **Feedback**

68. In some cases the CPD Assessment Team will assess a Plan and Record Card as compliant but note some areas of recommended action to improve the record. These recommended actions will be provided as feedback.

### **Our enforcement process**

69. Referral to enforcement action may occur if, for example:
  - You refuse to complete Corrective Action that has been set;
  - You fail to complete the full extent of the Corrective Action;
  - You repeatedly refuse to complete the CPD process in full or repeatedly fail to comply with all the requirements;
  - You fail to supply a CPD record and plan when called upon to do so;
  - You are dishonest (eg you falsely declare completion of the CPD cycle).



70. We will not normally make a referral to enforcement action for a single isolated breach of the CPD rules, although the seriousness of the breach will be taken into consideration.
71. If you are referred for consideration of enforcement action, the BSB will deal with the referral in accordance with the provisions of Part 5 of the Handbook and any relevant operational processes and policies.

### **Contact us**

72. If you have any questions or concerns about the CPD process we will be happy to help.

**Contact:** [cpdrecords@BarStandardsBoard.org.uk](mailto:cpdrecords@BarStandardsBoard.org.uk)

## **ANNEX - THE CPD RULES**

### **The mandatory continuing professional development requirements**

**rQ130** For the purpose of this Section 4.C:

- 1 “calendar year” means a period of one year starting on 1 January in the year in question;
2. "continuing professional development" ("CPD") means work undertaken over and above the normal commitments of a *barrister* and is work undertaken with a view to developing the *barrister's* skills, knowledge and professional standards in areas relevant to their present or proposed area of practice in order to keep the *barrister* up to date and maintain the highest standards of professional practice.
3. "CPD Guidance" means guidance issued by the Bar Standards Board from time to time which sets out the CPD structure to which an EPP *barrister* should have regard.
4. "EPP" means the Established Practitioners Programme which requires *barristers*, once they have completed the NPP, to undertake CPD during each calendar year in accordance with these Rules.
5. the “mandatory requirements” are those in Rules Q131 to Q138 below.
6. "NPP" means the New Practitioner Programme which requires barristers to complete CPD in their first three calendar years of practice in accordance with these rules.
7. a “*pupillage year*” is any calendar year in which a *barrister* is at any time a *pupil*.
8. a “learning objective” is a statement of what a *barrister* intends to achieve through their CPD activities for that calendar year with reference to a specific aim and one or more outcomes.

**rQ131** Any practising *barrister* who, as at 1 October 2001, had started but not completed the period of three years referred to in the Continuing Education Scheme Rules at Annex Q to the Sixth Edition of the Code of Conduct must complete a minimum of 42 hours of CPD during his first three years of *practice*.

### **Guidance**

#### **Guidance on Rule Q131**

**gQ1** Rule Q131 is intended to apply only in those limited circumstances where a *barrister* started *practice* before 1 October 2001 but after the NPP first came into force, left *practice* before completing the NPP, but has since returned. Rule Q131 requires them to finish their NPP during whatever is left of their first three years of *practice*.

**rQ132** Any practising NPP *barrister* who starts *practice* on or after 1 October 2001 must during the first three calendar years in which the *barrister* holds a *practising certificate* after any *pupillage* year complete a minimum of 45 hours of CPD.

### **Guidance**

#### **Guidance on Rule Q132**

**gQ2** NPP *barristers* should have regard to rQ137 and the NPP guidance which will note the details of any compulsory courses the NPP *barristers* must complete. It also provides guidance as to the types of activities that count towards CPD.

**rQ133** Subject to Rule Q136, any EPP *barrister* who holds a *practising certificate* or certificates during a calendar year must undertake CPD.

**rQ134** An EPP *barrister* who is required to undertake CPD must:

1. prepare a written CPD Plan setting out the *barrister's* learning objectives and the types of CPD activities he or she proposes to undertake during the calendar year
2. keep a written record of the CPD activities the *barrister* has undertaken in the calendar year
3. keep a written record in the CPD Plan for each calendar year of:
  - a. the *barrister's* reflection on the CPD he or she has undertaken;
  - b. any variation in the *barrister's* planned CPD activities; and
  - c. the *barrister's* assessment of his or her future learning objectives.
4. Retain a record of the CPD Plan and completed CPD activities for three years.
5. submit to the Bar Standards Board an annual declaration of completion of CPD in the form specified by the BSB.

### **Guidance**

#### **Guidance on Rules Q133 and Q134**

**gQ3**, EPP *barristers* who are required by these Rules to undertake CPD should refer to the CPD Guidance. The CPD Guidance provides further detailed information to which EPP *barristers* should have regard when planning, undertaking and recording their CPD. The CPD Guidance is not prescriptive. Its purpose is to provide a structure that would represent good practice for most *barristers* when considering their CPD requirements.

**gQ4** The CPD Guidance explains that these Rules do not specify a minimum number of CPD hours which an EPP *barrister* must undertake in a calendar year: it is the responsibility of the individual *barrister* to determine the CPD

activities he or she will undertake in order meet the requirements of CPD. The Bar Standards Board will assess and monitor *barristers'* compliance with CPD.

**gQ5** The underlying principle behind the requirement to plan CPD and set learning objectives is that *barristers* consider their own circumstances and development needs when they complete CPD activities. This best ensures that activities completed contribute to the development of the barrister's practice.

**rQ135** Upon the request of the Bar Standards Board, a *barrister* must produce his or her CPD Plan and record of CPD activities for assessment.

**rQ136** Rule Q133 does not apply:

.1 in the case of a *barrister* to whom Rule Q131 applies, to any calendar year forming or containing part of the period of 3 years referred to in Rule Q131;

or

.2 in the case of a *barrister* to whom Rule Q132 applies, during any *pupillage* year or during the first three calendar years in which the *barrister* holds a *practising certificate*.

**rQ137** The *Bar Standards Board* may, by resolution, specify the nature, content and format of courses and other activities which may be undertaken by *barristers* (or by any category of *barristers*) in order to satisfy the mandatory requirements.

**rQ138** The *Bar Standards Board* may, by resolution and after consultation with the Inns, Circuits and other providers as appropriate, vary the minimum number of hours of CPD which must be completed by an NPP *barrister* in order to satisfy any of the mandatory requirements.