

BAR STANDARDS BOARD

REGULATING BARRISTERS

Compliance with the price, service and redress transparency rules

1. Summary

- 1.1. In July 2019 we introduced the price, service and redress transparency rules, together with [guidance](#) to assist self-employed barristers, chambers and BSB entities in meeting the new requirements by the deadline of January 2020. We have carried out a review to assess the progress made so far by the profession in implementing the rules. We are encouraged that 75% of those assessed during our review were found to be either compliant or partially compliant, which represents good progress. However, we recognise that there is more work to be done to ensure that everyone is compliant. While we strongly prefer to continue to ensure compliance through constructive engagement, especially at this very difficult time for the Bar, those who do not engage with us to take corrective action, where it is needed, are likely to be referred for possible disciplinary action.

We encourage all barristers, chambers and BSB entities that were not part of the sample that we reviewed to consider the following common themes that emerged and take another look at the information they are providing to check whether it is compliant with the rules, in conjunction with our [guidance](#).

Mandatory rules requirements – common themes

- 1.2. The most common areas of non-compliance with the mandatory rules was failing to provide:
- Information about the factors which might influence the timescales of a case;
 - A link to the decision data page on the Legal Ombudsman’s website; and
 - A link to the BSB’s Barristers’ Register.
- 1.3. It was common for those barristers who provided a factsheet to make reference to their complaints procedure without either including this information or attaching it to the factsheet. They were advised that the complaints information must be provided at the same time to members of the public, in order to be compliant.

Additional transparency rules – common themes

- 1.4. The most common areas of non-compliance with the additional transparency rules (which apply to certain public access services) were failing to provide:
- Indicative fees and the circumstances in which they may vary;
 - Likely additional costs eg. Court fees; and
 - A description of the relevant public access services (including a concise statement of the key stages and an indicative timescale for the key stages).
- 1.5. More information about the rules and our review can be found below.

2. The rules

- 2.1. In December 2016, the Competition and Markets Authority published a [report](#), recommending that the legal regulators deliver a step change in transparency standards to help consumers understand the price and service they will receive, what redress is available and the regulatory status of their provider.
- 2.2. In response, we implemented the price, service and redress transparency rules in July 2019 ([Part 2 D6 of the BSB Handbook](#)). An implementation period was granted until January 2020 and we published [guidance](#) to assist self-employed barristers, chambers and BSB entities in meeting the new requirements.

The Mandatory rules

- 2.3. The mandatory rules require that all self-employed barristers, chambers and BSB entities include on their website or in a factsheet (as per [rC161](#) of the Handbook) the following information:
- A statement making it clear that clients may make contact to obtain a quotation and providing contact details;
 - Their most commonly used pricing models for legal services, such as fixed fee or hourly rate;
 - The areas of law and a description of those legal services which they most commonly provide;
 - Information about the factors which might influence the timescales of a case;
 - The appropriate "regulated by the Bar Standards Board" text on the homepage;
 - Information about their complaints procedure (including how to complain to the Legal Ombudsman) and the time limits for making a complaint;
 - A link to the decision data page on the [Legal Ombudsman's website](#); and
 - A link to the [BSB's Barristers' Register](#).
- 2.4. Barristers, chambers and BSB entities undertaking public access work must display on their website a link to the [Public Access Guidance for Lay Clients](#) on the BSB's website.

Additional rules

- 2.5. If specific public access services are provided, then additional transparency rules apply. These specific public access services are:
- Employment Tribunal cases (advice and representation for employers and employees);
 - Financial disputes arising out of divorce;
 - Immigration appeals (First-tier Tribunal);
 - Inheritance Act advices;
 - Licensing applications in relation to business premises;
 - Personal injury claims;
 - Summary only motoring offences (advice and representation for defendants); and
 - Winding-up petitions.

- 2.6. If the additional transparency rules apply, then the websites and factsheets must also include the following in relation to those services:
- Their pricing models, such as fixed fee or hourly rate;
 - Indicative fees and the circumstances in which they may vary;
 - Whether their fees include VAT;
 - Likely additional costs e.g. Court fees;
 - A description of the relevant public access services (including a concise statement of the key stages and an indicative timescale for the key stages); and
 - An indicative timescale for the key stages.
- 2.7. The required information must be sufficiently accessible and prominent on the websites as well as being accurate and up to date.

3. Progress in improving price transparency

- 3.1. We have conducted three reviews of the level of price information provided on chambers' websites since 2017. This enables us to assess the progress since the rules were introduced. These reviews looked at all available chambers websites, ranging from 329 websites in 2017 to 310 websites in 2020. They were assessed as follows:
- A. Included numerical information on fees (eg. indicative hourly rates, indicative fixed fees, costs for different stages of a case, etc).
 - B. More detailed information on how fees were calculated (covered two or more of the following: pricing models such as fixed fees or hourly rates; reasons costs can vary eg. barrister seniority, case complexity etc; information on additional costs such as charges, expenses, etc).
 - C. Basic information on how fees were calculated (covered one of the above).
 - D. No information on how cost/fees are calculated.
- 3.2. The results are as follows and show encouraging progress in the amount of information provided since 2017:

	2017	2019	2020
A	6%	3.8%	31.9%
B	8%	16.5%	23.7%
C	11%	23.7%	23.4%
D	75%	56.0%	21.1%

4. Levels of compliance with the full rules

- 4.1. In January 2020, we conducted a review of compliance with the rules for a sample of 440 self-employed barristers, chambers and BSB entities as follows:

Sample source	No.
Sole practitioners doing public access work in areas where additional rules apply	211
BSB entities doing public access work	34
Chambers (including public access)	195
Total assessed	440

- 4.2. Compliance with the rules was assessed via desk-based assessment. Where possible, we reviewed the websites of those selected in the sample for compliance with the mandatory and/or additional rules as appropriate. Where a website was not available (which was the case for 40% of the sample), we requested the transparency information in an alternative format, such as a factsheet.
- 4.3. Websites and readily available information were assessed as either compliant, partially compliant or non-compliant and the Supervision team engaged with barristers, chambers and entities individually to provide feedback. The results of the review are summarised in the table below.

Assessment	Proportion of sample assessed	Outcome
Compliant	37%	Not required to perform any further action, or only minimal action required.
Partially compliant	38%	Given feedback on how to achieve compliance.
Non-compliant	25%	Given feedback on how to achieve compliance. This group will be subject to a further spot-check in 2021, after which any still assessed as non-compliant will be considered for possible enforcement action.

5. Next steps

- 5.1. The introduction of the rules and the spot-check was widely communicated via our roadshows, our [website](#), press releases, social media and the Regulatory Update, which is sent to all members of the profession. We are encouraged to see that this message has been reaching the profession and good progress has been made.
- 5.2. The Supervision Team will continue to raise awareness of the rules by engaging with the profession as set out below.

Regulatory Return

- 5.3. The [Regulatory Return](#) is due to be completed in Autumn of this year and this process will provide another opportunity to engage with the profession on the rules. In particular, the Regulatory Return will have a question on the impact of the rules and will highlight the guidance. When the Supervision team is assessing the Return, we will check barristers, chambers and BSB entities' websites/factsheets for compliance and where non-compliance is identified, will require corrective action.

Ongoing Supervision activity

- 5.4. Where the Supervision Team is engaged in supervisory activity, we will use this as an opportunity to check the websites of the barrister, chambers or BSB entity concerned for compliance with the transparency rules and corrective action will be set where needed.

Spot checks in 2021

- 5.5. The barristers, chambers and BSB entities assessed as non-compliant during the review we conducted this year will be assessed again in 2021.
- 5.6. Our Supervision Strategy is based on constructive engagement but those who are found still to be non-compliant and do not engage with us to take corrective action are likely to be referred for possible disciplinary action.