

Regulatory Update August 2019

[Tessa's blog for the email content of this month's Regulatory Update]

Last month, we published our [Annual Report for 2018-19](#).

As well as describing our day-to-day work in regulating the Bar, it provides a useful summary of our policy development during the year. This included finalising the new Bar Qualification Rules which went live on 1 April 2019 and concluding most of the policy work relating to the new transparency rules for the Bar which subsequently took effect from 1 July 2019.

You can read more about the publication of our 2018-19 Annual Report on our website.

Having carefully considered the views of key stakeholders at a roundtable meeting in June, last month, we decided to update our policy on the publication of disciplinary findings for professional misconduct.

The new policy will introduce revised lengths of time for which disciplinary findings will be put in the public domain by us. For findings that do not result in a sentence involving a period of suspension or disbarment, there is no change to the current publication policy. We will continue to make them available for a period of two years. For suspensions of 12 months or fewer, the publication period will reduce from ten years to five years, whilst for longer suspensions, the publication period will change from "indefinitely" to ten years. For disbarments, the publication period will change from "indefinitely" to 60 years.

This update will help to ensure that we continue to meet the requirements of data protection legislation and seeks to strike the right balance between public protection and the impact on the profession of publication.

You can read more about the new publication policy on our website. It is due to come into effect on 15 September 2019.

Finally, in the online version of this month's Regulatory Update. We have published updated details about transitional arrangements for existing Pupillage Training Organisations and prospective Authorised Education & Training Organisations. If your Chambers offers pupillages, please make sure that you read this important information.

[Articles for the online version of Regulatory Update]

Our Annual Report for 2018-19

Last month, we published our latest [annual report](#) summarising our achievements during the 2018-19 business year.

Highlights of our work during the final year of our three-year Strategic Plan for 2016-19 included:

- finalising the new Bar Qualification Rules which went live on 1 April 2019;
- concluding most of the policy work relating to new transparency rules for the Bar which subsequently went live on 1 July 2019;
- agreeing a set of actions to tackle unfair treatment of women at the Bar;
- considering the responses we received to our 2018 consultation on Modernising Regulatory Decision Making and deciding to move ahead with changes to our regulatory decision making (with key changes due to be implemented in October 2019);
- issuing new guidance for professional clients when instructing immigration barristers, and publishing a new guide for barristers working with vulnerable immigration clients;
- adopting new statutory powers to intervene into barristers' practices in the very unlikely event that something has gone so seriously wrong that intervention is necessary to protect clients;
- raising the profile of the anti-money laundering requirements with which barristers must comply and engaging with the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) who broadly endorsed our supervision work in this area;
- consulting on new rules to promote reporting by the profession of sexual orientation and religion and belief data;
- reviewing pupillage recruitment practice at the Bar; and
- preparing for the civil standard of proof to be adopted in professional misconduct proceedings for alleged breaches of the Code by barristers occurring after 31 March 2019.

The report also describes our day-to-day tasks when regulating barristers and specialised legal businesses in England and Wales in the public interest. This work includes overseeing the education and training requirements for becoming a barrister; monitoring the standards of conduct of barristers; and assuring the public that everyone we authorise to practise is competent to do so.

We also published a separate document alongside our [Annual Report](#) containing the [Cost Transparency Metrics for 2018-19](#).

Important information about transitional arrangements for existing Pupillage Training Organisations (PTOs) and prospective Authorised Education & Training Organisations (AETOs)

Currently authorised as a PTO?

If you are currently authorised as a PTO, your authorisation will remain valid until you are asked to apply for authorisation as an AETO under the new Authorisation Framework.

You can continue to deliver pupillages and advertise for future pupillages while your authorisation is pending. We will aim to conclude the authorisation of AETOs by April 2021 and you are encouraged therefore to submit your application before that date.

If you wish to apply to become an AETO you can do so via [MyBar](#) and should refer to this [Guidance Document](#) to assist you in your application. This is also available in the MyBar application portal.

Technical guidance for completing your application in MyBar is available from our [Authorisations Team](#)

When do PTOs have to apply to be authorised as an AETO?

You will recall being asked to complete a survey in August last year. The answers provided in the survey have been used to prioritise when you will be required to apply for authorisation as an AETO.

Those PTOs to be considered within the first tranche for authorisation as an AETO can expect to hear from us between now and September 2019.

Will there be a charge for existing PTOs?

No - existing pupillage providers will not be charged an application fee.

How long will it take to be authorised as an AETO?

We anticipate the authorisation process to last no more than 8-12 weeks where all required information and supporting documentation is provided.

Thinking about becoming an AETO?

Before you apply, we suggest that you view the [Authorisation Framework](#) document and have regard to the [Bar Qualification Manual](#) and [Professional Statement](#) for barristers.

When you are ready to apply to become an AETO, you can do so via [MyBar](#) and should refer to the [Guidance Document](#) to assist you in your application.

Technical guidance for completing your application in MyBar is available from our [Authorisations Team](#).

Want to offer Pupillage in 2019 or in future years?

If you are not authorised as a PTO but are a prospective AETO planning to offer pupillage this year, please [contact us](#) to discuss your requirements.

Can I apply to become an AETO now?

Yes, the application portal is open for new applications to be submitted via [MyBar](#). Should you experience any difficulties or need support with your application then contact the [Authorisations Team](#) who will be happy to assist you.

What will it cost to become authorised as an AETO?

The fees for new applicants are set out in our [consultation response document](#). For most new applicants, there will be a flat fee of £250.

What does the process to become authorised as an AETO involve?

We have published the latest version of our Authorisation Framework [on our website](#).

What if I am no longer providing pupillages?

If you do not have any pupils and do not intend to have any in the foreseeable future, please [tell us](#). You will cease to be authorised to provide pupillage.

If you are authorised as a PTO and currently have pupils that commenced on or before 1 April 2019, but you do not intend to provide any further pupillages, you will continue to be authorised until the end date of the relevant pupillages.

If you decide to take on pupils in the future again, you can reapply for authorisation as an AETO, but this will attract a fee.

What if my organisation is not successfully authorised?

Our Authorisations Team will work with you to address any areas of concern and meet the required standard. To ensure that current pupillages are unaffected, you will continue to be authorised under the current arrangements. However, you will be unable to offer any new pupillages until you have met the required standard.

Any Further Questions?

If you have any further questions, please contact the Authorisations Team via email to authorisations@barstandardsboard.org.uk

Updated policy on the publication of disciplinary findings against barristers

Last month, our Board decided to update our policy on the publication of disciplinary findings for professional misconduct. The policy will in future extend to all avenues by which we put disciplinary findings into the public domain, and the lengths of time for which such findings are made publicly available have also been revised.

The current Publications Policy has been in place for many years and covers the publication of all findings of professional misconduct, and the associated sanctions imposed by Disciplinary Tribunals or via the [Determination by Consent procedure](#). The [Bar Tribunals and Adjudications Service \(BTAS\)](#) also publishes Disciplinary Tribunal findings on its website.

However, our current policy is limited to publication on our website whereas the updated policy covers publication by all means including on the Bar Register and on request.

This update will help to ensure that we continue to meet the requirements of data protection legislation and seeks to strike the right balance between public protection and the impact on the profession of publication.

Having carefully considered the views of key stakeholders at a roundtable meeting in June, we have now agreed to update this policy. The new publication policy is due to come into effect on 15 September 2019.

The revised lengths of time for which disciplinary findings will be put in the public domain by us will be as follows:

- For findings that do not result in a sentence involving a period of suspension or disbarment - information about them will be available for 2 years (this is the same as the current Publication Policy);
- For findings that result in a sentence involving a period of suspension from practising as a barrister for 12 months or fewer the period will be 5 years in addition to the duration of the suspension period (the current Publication Policy specifies a publication length of 10 years);
- For findings that result in a sentence involving a period of suspension from practising as a barrister of more than 12 months the period will be 10 years in addition to the duration of the suspension period (the current Publication Policy prescribes indefinite publication);
- For findings that result in a sentence involving disbarment the period will be 60 years (the current Publication Policy prescribes indefinite publication.)

Have we got correct details of your practice address?

Please ensure that you have given us your correct practice address in accordance with rS69 of our Handbook. If your practice address changes, you must tell our Records Department within 28 days.

Give us your feedback

If you have any thoughts about how we can improve the Regulatory Update or what content you would like to read, please email contactus@barstandardsboard.org.uk.