



REGULATING BARRISTERS

Candidate Brief

Bar Standards Board Experts

Members of the Advisory Pool of Experts

2021

The current recruitment

We are seeking to appoint five experts to join our Advisory Pool of Experts (APEX) specifically to provide advice to support us in our development and implementation of policy. We are looking for expertise in the following areas:

- Consumer Affairs – two specialist experts, one with experience of vulnerable consumers and one with experience of small business consumers;
- Equality and Diversity;
- Quality Assurance / Professional Competence; and
- Regulatory Policy and Theory.

These positions on APEX are advisory, are not part of our staff complement, and successful candidates will not usually be asked to provide more than ten days work per year. Obtaining expert advice in this way represents a cost-effective way for us to continue undertaking our important regulatory functions.

Background

The Bar Standards Board (BSB) was established in January 2006 as a result of the Bar Council separating its regulatory and representative functions in anticipation of the requirements that were subsequently enshrined in the Legal Services Act 2007. The BSB is an independent regulator responsible for regulating barristers and specialised legal businesses in England and Wales in the public interest.

In discharging its regulatory responsibilities, the BSB must have regard to, and act in a way that is compatible with, the regulatory objectives in the Legal Services Act 2007, which are to:

- Protect and promote the public interest;
- Support the constitutional principle of the rule of law;
- Improve access to justice;
- Protect and promote the interests of consumers;
- Promote competition in the provision of services;
- Encourage an independent, strong, diverse and effective legal profession;
- Increase public understanding of the citizen's legal rights and duties; and
- Promote and maintain adherence to the professional principles.

The BSB regulates the Bar by setting standards of entry to the profession and by ensuring compliance with the requirements set out in the Code of Conduct and BSB Handbook. Its responsibilities cover the following key activities.

- Setting the education and training requirements for becoming a barrister;
- Setting continuing training requirements to ensure that barristers' skills are maintained throughout their careers;
- Setting standards of conduct for barristers;
- Authorising organisations that focus on advocacy, litigation, and specialist legal advice;
- Monitoring the service provided by barristers and the organisations we authorise to ensure they meet our requirements; and
- Handling reports and allegations against barristers and the organisations we authorise and taking enforcement or other action where appropriate.

From September, the Board will comprise 11 members. There will be six lay people and five practising barristers. The Board has a lay majority and a lay Chair. The Board is committed to regulating in the public interest and to following best practice for modern regulators.

Why we need experts

As a small public interest organisation, we recognise that it is not possible for us to carry a staff complement of sufficient size to provide all the types of knowledge and expertise that we need to inform our work. We have therefore created APEX to act as a pool of independent subject matter experts that we can call on at any time to provide us with the expertise we might need. The pool includes members of the Bar as well as people with other kinds of relevant expertise.

APEX offers a flexible way of contributing to important and interesting topics in BSB policy development at an early stage. We will recognise your input publicly and show your details on our website. You will be paid for your time. You will become part of a group of experts from a range of different specialisms, with regular opportunities to come together and learn.

Expectations of APEX members

Members of APEX will be expected to play a full part in the work they are asked to contribute to, preparing thoroughly and contributing actively whenever called upon.

APEX members will be required to participate in an induction. Thereafter we will keep APEX members up to date with the wider work of the BSB relevant to the role and the issues being faced so that they are well informed when asked to provide advice.

All APEX members are expected to adhere to the BSB's policies, including health and safety, dignity at work, confidentiality and data security, declarations of interest (including dealing with conflicts of interest), gifts and hospitality, and equality and diversity.

APEX members may be asked to provide training to the Executive in their area of expertise.

Time commitment

The time commitment for each of the roles is set out in the role description below (but would not normally exceed a maximum of ten days in a year). We do not guarantee that any minimum number of days will be used. Depending on the particular work programme, input may be sought in short periods of consecutive days or spread out over the entire year. The BSB may seek to add additional days, by agreement with the expert, if that becomes necessary.

Payment

APEX members will enter into a consultancy agreement for services with the BSB, and will not be employed by the BSB.

All positions are to be remunerated at the following rates: £308 per day and £154 per half-day, plus expenses as permitted by our expenses policy.

APEX members will be engaged by the Executive on a case-by-case basis and paid on invoice.

APEX members will be paid at the rates above as a gross figure and will be responsible for their own tax and national insurance. Given the advisory nature of the roles we anticipate that APEX members will usually be covered by BSB insurance arrangements. Should there prove to be a need for any additional insurance, responsibility for obtaining and funding this will lie with APEX members.

The consultancy agreement will last for up to three years, with voluntary break clauses where the APEX member or the BSB would prefer to terminate the agreement. Reviews of performance and of the BSB's continuing needs for advice in each subject area will be conducted as part of this process.

Current members of APEX

Lay members to support staff working on policy development have been appointed in the areas of:

- Competition and Economics
- Consumer Affairs (generalist)
- Equality and Diversity (with a second member being sought)
- Higher Education
- Insurance
- Regulatory Policy and Theory (currently vacant)
- Regulatory Risk
- Statistics

Barrister members to support staff working on policy development have been appointed in the areas of:

- Competition Law
- Equality and Diversity Law
- Information Law and Data Protection
- Money Laundering Regulations
- Regulatory Law

Staff taking regulatory decisions on authorisations can seek advice on exemptions and waivers relating to qualification requirements from two experts in that area.

Short biographies of current APEX members who support our policy development can be found on our website [here](#).

The Roles

We are now seeking to appoint an additional five experts to join APEX specifically to provide advice to support us in our development and implementation of policy. We are looking for expertise in the following areas:

- Consumer Affairs – two specialist experts, one with experience of vulnerable consumers and one with experience of small business consumers;
- Equality and Diversity;
- Quality Assurance / Professional Competence; and
- Regulatory Policy and Theory.

Selection and Eligibility criteria

There are three different sets of criteria that applicants must meet, or make declarations in relation to, in order to be considered for interview:

- General selection criteria;
- Specific selection criteria for each role; and
- General eligibility criteria.

The relevant criteria are set out under the corresponding headings below.

General selection criteria

All applicants are expected to have a level of professional integrity and judgement that will contribute to public confidence in how we regulate and hold the respect of our stakeholders including the profession and the public.

Candidates for APEX membership may demonstrate expertise in their field through a postgraduate or professional qualification, or through professional experience, which may include voluntary or pro bono work. The BSB welcomes a diverse range of experiences and approaches, and does not give preferential treatment to people with postgraduate or professional qualifications.

Candidates must also meet the following general core competencies and qualities:

Technical

- A genuine expert in their field, who is regarded as a “thought leader”; someone who is always looking ahead to identify the changes needed to respond to policy and best practice developments in the wider environment;
- Expert knowledge, and extensive experience and application, of professional/technical concepts and principles;
- Communicates technical and complex information effectively whether in writing or orally, tailored to the needs of each audience;

- Appreciates the regulatory environment within which the BSB operates; and
- Understands the issues that are relevant to regulating the Bar and its relationship with consumers, society and the economy.

Planning and Thinking

- A record of addressing difficult issues; able to ask probing questions which go to the heart of an issue; and
- Looks at strategic and longer term implications and not simply at short term solutions.

Working with Others

- Well-developed interpersonal, communication and presentation skills with a collaborative style;
- Confidently and constructively challenges others' views;
- Committed to the highest possible standards of ethics and personal integrity and to behaving at all times in a fair, balanced and non-discriminatory manner; and
- Committed to promoting equal opportunities for all, treating people fairly whilst responding sensitively to differences.

Outputs and Delivery

- Maintains a clear focus on results whilst ensuring professional and quality standards are met; and
- Promotes excellence and continuous improvement at all times.

Specific selection criteria

As stated above, each role has specific criteria that apply to it. The specific criteria are provided for each role in pages 10 to 13.

General eligibility criteria

The BSB is required to keep its regulatory activities separate from any representative activities in relation to barristers, and specifically we must remain independent of the Bar Council. We therefore require that APEX members do not have any close relationship with the Bar Council, for example as a member of a Bar Council representative committee, working group or as an advisor to the Bar Council, at the same time as appointment to the APEX panel. If a person wishes to be appointed to APEX, they will be required to give up their membership of relevant bodies.

Members will be asked to confirm their eligibility at the time of appointment and throughout the duration of their appointment.

We also ask members to declare any close association with other bodies that represent or are strongly affiliated to the Bar, for example the Inns of Court or Specialist Bar Associations.

We ask that all candidates notify us of:

- Any previous or pending supervisory action, complaint, investigation, disciplinary proceedings or disciplinary findings against them under any applicable disciplinary system;
- Any other conduct which calls into question their honesty, integrity, financial position or respect for the law. Such conduct includes, but is not limited to, both personal and professional activities and media comment (including social media comment), which may or may not have given rise to adverse publicity; and
- Any other matter, which if it was in the public domain, might risk diminishing public confidence in the regulator.

The associations and declarations listed above do not necessarily make a candidate ineligible for APEX membership. We will consider any information provided on its individual facts and we may ask for more information before progressing an application further or we may explore with the candidate at interview. However, the BSB reserves the right to deem a candidate as ineligible for APEX membership if we consider the nature of any associations and/or declarations make the candidate unsuitable for selection.

The BSB reserves the right to make its own enquiries and checks to verify the declarations made.

Application Process

Applications should be made to apexapplications@barstandardsboard.org.uk, including:

- **A full CV** detailing your qualifications, employment, skills and experience;
- **A covering letter** (of no more than three pages) stating **why the position you are applying for interests you, how you meet the general selection criteria** (as detailed in this candidate brief), and **how you meet the specific selection criteria for the position you are applying for** (as detailed in this candidate brief);
- **A completed Supporting Details Form** including daytime and evening telephone numbers, an email address to which confidential messages may be sent, declarations and associations relevant to membership (as detailed in this candidate brief), and names and contact details of a minimum of two professional referees; and
- **A completed Equality & Diversity Monitoring Form** (if you wish to complete it). This form is confidential, will be kept separately from your application and is for monitoring purposes only. We are asking for this information from you to help us meet our equality duties and to ensure that we understand the impact of our recruitment practices in relation to the protected characteristics. By monitoring and analysing this information we can understand then act to ensure our practices promote equality and remove any practices that could lead to unlawful discrimination.

You may apply for more than one position, as your expertise permits. The closing date for receipt of applications is Monday 16 August at **9:00am**.

If you wish to seek a reasonable adjustment to the recruitment process for any reason, please contact Jeanette Fordyce-Harvey using the contact details provided below.

The BSB aims to recruit talented candidates and values diversity in background, skills and experience. We are committed to providing equality of opportunity for all applicants.

Further information and queries

For any queries, please contact:
(jfordyce-harvey@barstandardsboard.org.uk)

For a confidential discussion regarding the positions and the operation of the Bar Standards Board, please contact:

Rebecca Forbes, Head of Governance and Corporate Services
(rforbes@barstandardsboard.org.uk)

Timetable

- Closing date: Monday 16 August 2021, 9:00am
- Week commencing Monday 13 September 2021: invitation to interview for shortlisted candidates
- Interviews will be conducted for the various roles in the weeks commencing 20 and 27 September

Consumer Affairs Experts

In addition to the general selection criteria, the Consumer Affairs experts should demonstrate the following essential competencies and as many of the desirable aspects as possible.

Essential Competencies

- An understanding of, and a deep seated commitment to, promoting and protecting the interests of consumers;
- Experience in advocating for, or working with, small businesses or consumers whose characteristics or situation make them particularly vulnerable (in particular those whose views may be less represented in mainstream markets) ideally in the context of legal services;
- Experience in reaching and engaging with such consumers, including those who may be hard to reach;
- Understanding of consumer protection issues and their implications for regulation;
- Experience of advising on best practice use of market research methodologies including a broad understanding of both primary and secondary market research methodologies, familiarity with analytical tools and processes, and an ability to challenge and constructively communicate observations;
- Regulatory understanding, including knowledge of frontline regulation from other regulated industries; and
- Understanding of outcomes-focused and risk-based regulation.

Desirable Competencies

- Understanding of the legal services market, particularly the role of barristers;
- Understanding of the legal services regulatory framework;
- Experience of delivering public legal education; and
- An appreciation of the contribution that legal services make to society as a whole.

Equality and Diversity Expert

In addition to the general selection criteria, the Equality and Diversity expert should display the following essential competencies and as many of the desirable aspects as possible.

Essential Competencies

- Experience of equality impact assessment in a complex policy or organisational environment;
- Experience of working with public or private bodies and/or regulators to develop and support equality and diversity initiatives;
- Understanding of ongoing developments in equality and diversity policy and practice, the political and social context of these changes and their implications for regulation;
- Understanding of the Equality Act 2010 and the public sector equality duty; and
- Understanding of anti-discriminatory theory and practice; and
- Understanding of unconscious bias.

Desirable Competencies

- Application of equality and diversity principles to the development and implementation of regulatory policy and/or decision making;
- Experience of advising on equality and diversity best practice in higher education and/or regulation;
- Experience of providing equality and diversity training;
- Publication of academic research and/or professional publications on equality and diversity;
- Understanding of access to justice issues and their implications for regulation;
- Understanding of market regulation;
- Understanding of the legal services market, particular the role of barristers;
- Understanding of the legal services regulatory framework;
- Understanding of the legal services training market, or other training markets; and
- Understanding of wellbeing issues and experience of related initiatives.

Quality Assurance / Professional Competence Expert

The BSB has embarked on a programme of work on assuring the professional competence of barristers. This programme pulls together existing work, such as a review of the regulation of the early years of a barrister's practice, and new areas of activity, for example, how we capture and use information about standards at the Bar from a range of internal and external sources to help identify areas requiring targeted regulatory intervention. A key feature of this programme will be learning from others from different sectors on the approaches taken to assuring professional standards and competence.

We are therefore looking for someone with expertise of professional competence and/or quality assurance. We are open to where this expertise may come from – it could be, for example, from working in regulation in a different sector or working in a regulated setting or a professional training body with responsibility for assuring standards. It could equally come from someone with an academic interest in professional competence or from someone with experience of the consumer perspective on standards or quality assurance.

In addition to the general selection criteria, the Quality Assurance / Professional Competence expert should display the following essential competencies and as many of the desirable aspects as possible.

Essential Competencies

- Experience of the development and assessment of professional competence and standards;
- Experience of different models of assuring professional competence and their practical application; and
- Experience of developing regulatory responses to assure competence in technical and specialist areas of practice.

Desirable Competencies

- Understanding of the BSB requirements and guidance in relation to continuing professional;
- Experience of using data and/or evidence to target regulatory interventions in areas of risk to professional standards or competences.

An understanding of the role of education and training to address professional competence concerns

- Understanding of developing learning outcomes, e.g. through teaching activity; and
- Experience of the professional development of barristers or other legal professionals.

Regulatory Policy and Theory Expert

In addition to the general selection criteria, the Regulatory Policy and Theory expert should demonstrate the following essential competencies and as many of the desirable aspects as possible.

Essential Competencies

- Experience of advising on regulatory best practice;
- Experience of applying regulatory theory to the development and implementation of regulatory policy;
- Experience of working with regulators to develop and support robust regimes;
- Understanding of market regulation;
- Understanding of outcomes-focused and risk-based regulation; and
- Understanding of ongoing developments in regulatory policy and theory, the political and social context of these changes and their implications for regulators.

Desirable Competencies

- Experience of applying regulatory theory to regulatory decision-making;
- Experience of providing regulatory policy and theory training;
- Experience of the regulatory policy environment across multiple sectors and/or jurisdictions;
- Publication of academic research and/or professional publications on regulatory policy and theory;
- Understanding of consumer protection issues and their implications for regulation;
- Understanding of the legal services market, particularly the role of barristers;
- Understanding of the legal services regulatory framework; and
- Understanding of the legal services training market, or other training markets.

Other Useful Information

Bar Standards Board

www.barstandardsboard.org.uk

BSB APEX

<https://www.barstandardsboard.org.uk/about-bar-standards-board/how-we-do-it/our-governance/advisory-pool-of-experts/>

BSB Committees

<https://www.barstandardsboard.org.uk/about-bar-standards-board/how-we-do-it/our-governance/our-committees/>

BSB Constitution

<https://www.barstandardsboard.org.uk/about-bar-standards-board/how-we-do-it/our-governance/more-about-our-governance/>