

Regulatory Update January 2019

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

Let me begin by wishing you all a very happy new year.

In this first edition of Regulatory Update in 2019, we include information about the research we conducted last year into the way in which pupillages are advertised and the selection criteria used by those recruiting pupils. The research has helped us identify pupillage recruitment practice at the Bar to inform a new set of guidance that we aim to publish soon.

We have published a new version of the Handbook making a number of changes which are designed to clarify existing policy and practice. Most importantly, we have amended the wording of Core Duty 3 and some consequential Rules and guidance to read that “you must act with honesty and with integrity” to make clear that a failure to act without either honesty or integrity is a breach of the Code. Other amendments relate to the handling of client money, the status of unregistered barristers, the holding of data by public access barristers and the definition of a “lay person”.

With the [new Bar training rules](#) expected to come into force soon, once they have been approved by the Legal Services Board, 2019 is set to be a year in which we implement and consolidate recent reforms rather than propose many more policy changes. Please keep abreast of the various changes coming into force by keeping a watchful eye on these monthly Regulatory Update emails. You can also follow us [on Twitter](#).

We also plan to introduce new rules soon to improve transparency standards for clients of the Bar. This follows the responses we received to our [recent consultation](#) which my Board and I are due to consider later this month. I expect to update you about this next month and to provide further information on what you must do to comply with the new rules when they come into force.

Finally for this month, I would like to welcome Irena Sabic who joins the Board this month as one of our barrister members.

The annual Authorisation to Practise (AtP) period to renew your practising certificate is due to start later in February. Please check that the email address which you have registered on [MyBar](#) is accurate and up-to-date, as this will be what we will be using to contact you about and during AtP. Thank you.

[RU articles to appear only on the website – ie not in the email]

New version of the BSB Handbook published

We have published a new version of the [BSB Handbook](#) making a number of changes which are designed to clarify existing policy and practice. The amendments are as follows:

- We have amended the wording of Core Duty 3 and some consequential Rules and guidance to read that “you must act with honesty and with integrity” to make clear that a failure to act without either honesty or integrity is a breach of the Code. This is in line with our existing approach.
- We have amended Rule C73 concerning the holding of client money to make clear the position of barristers who are employed by authorised non-BSB bodies so that the Rule now reads “*Except where you are acting in your capacity as a manager or employee of an authorised (non-BSB) body, you must not receive, control or handle client money apart from what the client pays you for your services.*”
- We have amended Rule C94.7 to make clear that unregistered barristers are not to be regarded as “BSB authorised individuals”
- We have amended Rule C131.1 to remove reference to the “permanent” retention of copies of all documents received from their lay clients by Public Access barristers to ensure this requirement is consistent with the General Data Protection Regulation.
- We have amended the definition of a “lay person” in the Handbook to ensure that it is aligned with that in the Legal Services Act 2007 (Schedule 1 paragraph 2(4) and (5)).

New barrister Board member for the Bar Standards Board

We have appointed Irena Sabic as a new barrister Board member.

Irena Sabic was called to the Bar in October 2002. She is a member of Garden Court Chambers and an established public law practitioner with a particular expertise in immigration and asylum, community care, housing and planning law. In recent years Irena has focussed on the representation of vulnerable children and adults subject to immigration control. Irena is regularly invited to deliver lectures and seminars to solicitors, public bodies and NGOs. She is a Trustee and Board member of Trauma Treatment International.

Ms Sabic was selected from a field of strong candidates by an independent panel, chaired by Baroness Tessa Blackstone. Ms. Sabic took up her appointment on 1 January 2019.

Important information for Pupillage Training Organisations intending to take on pupils in 2019

Chambers and organisations that intend to provide pupillages after [the new Bar Training rules](#) come into effect later this year must be authorised under the new

[Authorisation Framework](#) as an Authorised Education & Training Organisation (AETO). This includes chambers/organisations that are currently authorised as Pupillage Training Organisations (PTOs). The new Bar Training Rules are expected to come into force once they have been approved by the Legal Services Board (LSB). A decision by the LSB is expected by the end of February 2019.

The following questions and answers provide more information about becoming an AETO and in some areas, provide an update on what we have announced previously.

How will we be administering the authorisation process?

In August 2018, we wrote to all chambers, BSB entities and other organisations that provide pupillages. We asked you to complete a short [survey](#), so we knew which chambers/organisations intended to take on pupils in 2019 and in the future. We will use this information to determine a timeframe for the authorisation process.

Have you replied to our survey yet?

Thank you to all those chambers and organisations who have responded to our survey. From February, we will be writing to those who intend to take on pupils to tell them when they will be required to submit their application for authorisation to become an AETO.

There are still many organisations that have not responded. It is particularly important that you do so if you intend to take on pupils in 2019, as you must be authorised as an AETO to do so. If you have not yet responded, please contact authorisations@barstandardsboard.org.uk

What will it cost to become authorised as an AETO?

If you currently train pupils and are authorised as a PTO, there will be no fee to apply for authorisation as an AETO provided that you have responded to our survey by 31 January 2019 to tell us of your intentions. The fees for new applicants are set out in our [consultation document](#). For most new applicants, we anticipate that the fee will be £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](#).

The purpose of the Authorisation Framework is to explain to training providers what they must do to meet our requirements to be authorised to deliver Bar training. In particular, it explains what will be required to comply with the four principles of accessibility, affordability, flexibility and sustaining high standards. Guidance will be published for those providing pupillage and support will be available to you throughout this process.

We are keen to work with existing and prospective providers of pupillage to gather feedback on our process and the new Authorisation Framework. Please [contact us](#) if you would like to get involved.

Can I apply for authorisation before the rule change comes into force?

If you have applied or intend to apply for authorisation before our new rules come into effect, we will assess your application under the current arrangements for PTOs. We must have received the associated fees and supporting documentation to complete our assessment by the date that the new rules come into effect. However, you will subsequently need to re-apply for authorisation as an AETO under the new arrangements to ensure that you meet the standards of the new Authorisation Framework. You can therefore request that your application be deferred until the new rules come into effect. If you decide to do this, we will work with you to help you meet the necessary standards

Chambers/organisations applying during this period without submitting either fees or supporting documentation by the effective date of the new rules will be assessed under the new rules.

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 from the date that the new rules come into effect.

If you are authorised as a PTO and currently have pupils that commenced on or before the effective date of the new rules, 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.

Any Further Questions?

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

BSB seeks views on how to recover costs for overseeing new Bar training rules

In December 2018 we launched a consultation seeking views on the charging model we propose to introduce for organisations providing Bar training. These organisations are known as Authorised Education and Training Organisations (AETOs).

The consultation considers how we should recover our costs in authorising and supervising AETOs under the new Bar training rules and in managing the centralised examinations that form part of the qualification process for new barristers.

The consultation seeks views on the extent to which the costs of authorising and supervising Bar training should be met by AETOs – bearing in mind that many vocational training providers pass on these costs to students - or by the profession in the form of contributions from barristers' Practising Certificate Fees (PCF).

The consultation also seeks views on how the cost of the Professional Ethics examination to be taken during pupillage should be recovered. We propose that this should be fully subsidised by the PCF in order to avoid discouraging parts of the Bar from offering pupillage, to reduce negative equality impacts, and to support new entrants to the profession.

Subject to Legal Services Board approval, the new Bar training rules will come into force early this year. [You can read the full consultation paper on our website.](#) The closing date for this consultation is 5.00pm on Friday 1 March.

Wanted: question writers and markers for Civil Litigation, Criminal Litigation and professional ethics

Job Title: Marker, Professional Ethics

Job Title: Question Writer, Civil Litigation or Criminal Litigation

Job Title: Standard Setter, Civil Litigation or Criminal Litigation

Hours: Part-time

We are seeking to expand our pool of question writers for both Civil Litigation and Criminal Litigation. We are also seeking markers for Professional Ethics, as well as standard setters for all three subjects (those who help to determine the pass mark).

We welcome applications for all three roles from legal academics and from barristers and solicitors qualified to practice in England and Wales. You may apply for several roles.

Question writers are required to provide and edit multiple choice Civil Litigation or Criminal Litigation questions to an acceptable standard as determined by us. You will work from home on a part-time, project-by-project basis with the number of questions and syllabus topics determined by us. Previous experience of question writing is desirable but not essential.

Markers are required to mark short answer questions on Professional Ethics. Previous experience of marking examination scripts is desirable but not essential as training will be given and standardisation meetings will be held. There is some element of home working and you will be required to attend meetings at our office.

Standard setters are required to define the boundary between passing and failing by making judgements on candidates' performances and the nature of the skill or subject matter using recognised methodologies. Standard setters are required for all

three subjects. Training will be given. You will be required to attend meetings at our office.

If you would like to discuss the role(s) in more detail, please contact Natasha Ribeiro, Examinations Manager on 020 7611 1482 or by email.

Applications can be made by emailing your CV and covering letter to Natasha Ribeiro, Examinations Manager (nribeiro@barstandardsboard.org.uk).

Closing Date: 1 February 2019

Wanted: Assistant Chief Examiner, Professional Ethics

Hours: Part-time

Salary: £400 per day

Location: High Holborn, London

An opportunity has arisen for a suitably experienced individual to contribute to high standards in the delivery of the Professional Ethics centralised assessment of the BPTC.

The role involves: working closely with the examination team (comprising the Chief Examiner and the two existing Assistant Chief Examiners); contributing to the question writing process; creating robust, high quality examination papers and mark schemes; actively contributing to the decision making processes of the standard setting meetings, and exam boards; overseeing and contributing to the marking process; contributing to consultations on the strategic development of the assessment of Professional Ethics as an element of Bar training, and attending training events as required.

Time commitment for the role will be around 20 days per annum. The initial appointment will be until the end of 2019 with the possibility of renewal by mutual consent.

If you would like to discuss the role in more detail, please contact Natasha Ribeiro, Examinations Manager on 020 7611 1482.

Applications can be made by emailing your CV and covering letter to Natasha Ribeiro, Examinations Manager (nribeiro@barstandardsboard.org.uk).

Closing Date: 1 February 2019

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.