

**CURRENT GUIDANCE**

## **Chambers Closure Guidance**

1. There are a number of regulatory considerations involved in closing down a set of chambers. These considerations apply to both multi-member sets of chambers and sole practitioners. In particular, barristers at a chambers that is closing down should seek to ensure that they comply with the following Core Duties in the BSB Handbook:
  - You must act in the best interests of each client [Core Duty 2]
  - You must keep the affairs of each client confidential [Core Duty 6]
  - You must 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 [Core Duty 10]
2. In order to achieve an orderly closure, members of chambers should:
  - (a) be aware of the risks that are involved in closure. Failure to properly manage these risks could result in non-compliance with regulatory obligations, which could in turn result in the BSB pursuing enforcement action; and
  - (b) inform the Records Office if their chambers are in the process of closing down. The BSB's Supervision Team may also be able to offer guidance on orderly closures.

### **Risks**

3. There are risks associated with chambers closures that relate to the overall administration of chambers, as well as those that relate to the responsibilities of individual self-employed barristers within the chambers.

Chambers administration

4. Members of chambers and those involved in the administration of chambers should consider what risks could arise from closure and how these can be mitigated.
5. The following list is not exhaustive, but highlights some risks that the BSB believes all chambers in the process of closing down should be seeking to mitigate:
  - Pupillages are disrupted and pupils are not able to qualify;
  - Confidential information is not safely returned to professional and/or lay clients or disposed of;
  - Important case papers or other necessary records are lost;
  - Proper arrangements in relation to the aged debt of members (e.g. transfer to new chambers) are not made;
  - Professional clients, lay clients and others do not know where to direct future complaints; and
  - Outstanding complaints are not properly investigated and clients do not receive redress.

Individual responsibilities

6. In addition, members of chambers need to consider their individual responsibilities through the process of closing chambers. In particular, they will need to manage the following risks:
  - Clients are not informed about changes and therefore do not receive continuity of representation;

- Information and records required for effective continuity of representation are lost; and
  - Records required to be kept for a minimum amount of time are lost or destroyed in the dissolution of chambers.
7. All of the risks set out in this guidance are indicative. It may be that additional risks are involved in specific closures and therefore members of chambers should assess whether there are any other risks that need to be managed.

#### **Specific issues to consider**

8. It is for chambers that are in the process of closing down to consider how these risks, and others, can best be mitigated in their circumstances. However, there are some specific issues which should be considered:
- (a) Email servers: barristers should ensure that (i) important emails (both sent and received) are not lost if chambers email server closes down, and (ii) there continues to be compliance with the General Data Protection Regulation (GDPR).
  - (b) Record keeping:
    - i. Public Access/Licensed Access documents
    - ii. VAT records both for members of chambers and chambers itself (if applicable)
    - iii. Payments received for each member of chambers and again where appropriate chambers itself
    - iv. Legal Aid details
    - v. Staff employment records, particularly in relation to PAYE
    - vi. Tax information in relation to chambers (i.e. corporation tax)
    - vii. CFA agreements

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- viii. Money Laundering Certificates
  - ix. Continued compliance with GDPR
- (c) Signposting: after closure chambers' website should refer clients to the Barristers' Register on the BSB's website, as this will enable clients to find where their barrister has moved to.

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**Bar Standards Board**