

**BAR  
STANDARDS  
BOARD**

REGULATING BARRISTERS



**Memorandum of Understanding**

**made between**

**the Legal Aid Agency**

**and**

**the Bar Standards Board**

## **Memorandum of Understanding**

### **The Parties**

1. This Memorandum of Understanding (MOU) is made between:
  - a. The Legal Aid Agency (“LAA”); and
  - b. The Bar Standards Board (BSB) in its role as the regulatory arm of the Bar Council.
2. The terms “LAA” and “BSB” include the relevant bodies and any staff, other persons, panels or groups acting on the parties’ behalf or under their jurisdiction.

### **Purpose and status**

3. The purpose of this MOU is to set out the information sharing arrangements between the LAA and the BSB which are designed to assist both bodies in the effective discharge of their functions.
4. This MOU is not intended to be legally binding and no enforceable contract is being entered into by the parties.

### **Functions of the BSB**

5. The BSB has responsibility for regulating barristers in England and Wales. The BSB’s functions cover:
  - a. Setting the education and training requirements for becoming a barrister;
  - b. Setting continuing training requirements to ensure that barristers’ skills are maintained throughout their careers;
  - c. Setting standards of conduct for barristers;
  - d. Monitoring the service provided by barristers to assure quality;

- e. Handling complaints against barristers and taking disciplinary or other action where appropriate.
6. In relation to function 5 (d) and (e) above, this includes but is not limited to:
- a. Supervising chambers, barristers and, when authorised, entities;
  - b. Considering and investigating potential breaches of the BSB's Handbook; and
  - c. Determining whether breaches of the Handbook should be addressed via enforcement action as professional misconduct.

### **Functions of the LAA**

- 7 The LAA is an executive agency of the Ministry of Justice responsible for delivering legal aid efficiently and effectively as part of the justice system. The LAA is not responsible for policy decisions on legal aid. The LAA's functions cover:
- a. Administering the Legal Aid Scheme to provide both civil and criminal legal aid and advice in England & Wales
  - b. Commissioning & procuring legal aid services from providers [solicitors, barristers and the not-for-profit sector]

### **Principles**

8. This MoU is based on the principles that, where possible, the parties will share information between them that is relevant to the discharge of their functions and will co-operate with each other to improve the effectiveness of both organisations. In particular both organisations agree to:
- a. Exchange information in line with this agreement; and
  - b. Keep each other updated on issues relevant to the discharge of their functions;
  - c. Provide performance, or other data, that will be of benefit to the other.

## **Information sharing**

9. The BSB agrees to share the following information in a timely fashion subject to paragraphs 11-16:

- a. Details of any complaints received, whether progressed or not, which involve issues of concern directly related to payment of legal aid fees;
- b. Details of disciplinary findings or interim orders against relevant persons (as defined in the BSB Handbook 2014) which involve a period of suspension, disqualification or a disbarment;
- c. On request, details of the practising status of any barrister including the history of that barrister's status.

10. The LAA agrees to share the following information in a timely fashion subject to paragraphs 11-16:

- a. Any decisions on restrictions or prohibitions on individual barristers or entities being paid funds from the legal aid purse;
- b. Information on areas of concerns either generally or in relation to specific chambers, entities or individuals that may require regulatory intervention;
- c. Any intelligence the LAA considers relevant to the BSB's supervisory functions, including individual referrals to the police.

## **Restrictions on the exchange and holding of information**

11. The exchange of information between the parties is subject to the parties being able to provide any relevant information within the law and/or within their own policies. Therefore, in general, information will not be exchanged if it:

- Runs contrary to the provisions of the Data Protection Act 1998;
- is subject to legal privilege; and/or
- is for any other reason considered to be confidential either in law or under the terms of the parties' regulations, rules or policies applicable at the time.

12. In providing information the parties will be responsible for ensuring they abide by their legal obligations. The receiving party will not be responsible, unless required under law to do so, for any disclosure made by the sending party.

13. The parties agree to hold any information provided in a secure manner and will not disclose it to third parties without the express agreement in writing of the party providing the information.

### **Confidentiality**

14. The parties agree that any information exchange outlined will remain confidential as between the parties unless the information is already in the public domain or prior agreement to disclosure has been given in writing by the sending party.

15. Where there is a need to make a public statement about the exchange of information, e.g. as a result of a press enquiry, the parties agree to liaise with each other before finalising the individual statements each party will make.

### **Action by the LAA or BSB**

16. The parties agree that, where appropriate, information provided under this MoU can be relied on when determining whether any action, including enforcement action, will be taken by either party. Where enforcement action is taken, the parties agree to co-operate with each other in supporting the action including providing witness evidence where applicable. The parties agree that the outcome of any action taken based on information provided will be communicated to the other party.

17. BSB action: the BSB agrees that where the LAA provide information that represents a potential breach of the Handbook either by an individual or an entity which warrants further consideration, it will deal with the matter as an internal complaint i.e. by raising a complaint of its own motion.

### **Practicalities and administration**

18. The parties will meet as appropriate to discuss joint-working initiatives and will nominate individuals within their respective organisations to act as the designated contact points for

each organisation. All contact between the parties will be channelled through the designated individuals but such persons may change from time to time without the need to alter the terms of this MoU. As at the date of this MoU, the designated individuals are:

- a. BSB – Assessment Team Manager; Supervision Manager
- b. LAA – Head of Contract Management; Head of Counter-fraud

19 Any problems or concerns about the operation of this MoU should be channelled via the designated individuals who should seek to resolve the matters. In the event that the issues cannot be resolved, the matters will be escalated via the relevant line management chain of each organisation depending on the nature of the issue.

### **Training and development**

20 Where appropriate, and subject to need, the parties agree to provide training<sup>1</sup>, free of charge, to assist with developing a mutual understanding of each other's functions and processes.

### **Implementation, review and amendment**

21 This MoU will take effect as at the date of the last signature and will continue to have effect until terminated by either party giving 30 days written notice of the termination to the other party.

22 The terms of this MoU will be reviewed periodically with the expectation that such reviews will take place annually.

23 Any changes to the terms of this MoU must be agreed by the parties.

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<sup>1</sup> "Training" may consist of written updates and face to face

**Signature:**



**Date: 17 August 2016**

**BSB representative**

Sara Jagger  
Director of Professional Conduct  
Bar Standards Board

**Signature:**



**Date: 22 August 2016**

**LAA representative**

John Sirodcar  
Head of Contract Management  
Legal Aid Agency