

**CURRENT GUIDANCE**

## Transparency Standards Guidance – Section 3

### Additional best practice on transparency for everyone

By “everyone”, we mean all self-employed barristers, chambers and BSB entities, but not employed barristers. The additional best practice in this section encourages you to go beyond the mandatory rules.

In considering whether to adopt these best practice suggestions, remember that price transparency in particular can be a good way to encourage consumers to seek the services of fully qualified and regulated practitioners (rather than seeking the services of Mackenzie friends, or not seeking legal advice and representation). However, if you do decide to adopt some of these best practice suggestions, you should think about whether providing the information would actually improve consumer understanding, and therefore help consumers to make informed decisions about their case.

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## Summary

If you would like to go beyond the mandatory rules on price transparency, your website can also:

- State your indicative fees for your most commonly provided legal services, the circumstances in which they may vary, whether your fees include VAT (where applicable), and likely additional costs;
- Include information about the typical range of costs for different stages of cases (where appropriate);
- Include information about how to avoid/manage the risk of costs increasing significantly, and any price flexibility;
- Include information about legal insurance;
- Include information about legal aid eligibility;
- Include information about any third party payment services you use; and
- State that you, barristers in chambers or the BSB entity is registered for VAT, and that you can provide your VAT number(s) on request.

If you would like to go beyond the mandatory rules on service transparency, your website can also:

- As part of the (mandatory) description of your most commonly provided legal services, include a concise statement of the key stages and an indicative timescale for the key stages;
- Explain the nature of your business e.g. chambers, or BSB entity (company, partnership or LLP);
- State the mix of people commonly involved in providing services;
- Include information about you and your practice, and how to instruct you;

- Include information for people with disabilities and language requirements on how to access your services and request reasonable adjustments;
- Include information about the [Legal Choices website](#); and
- Include information about further sources of support and advice.

If you would like to go beyond the mandatory rules on redress transparency, your website can also:

- State that you have professional indemnity insurance cover for all the legal services you supply to the public;
- Include information about any alternative dispute resolution (ADR) services you use;
- State that you, barristers in chambers, or the BSB entity is registered with the Information Commissioner's Office (ICO); and
- Display the BSB's logo.

You should ensure that the information is sufficiently accessible and prominent on websites, accurate and up to date and readily available in alternative format.

### **Price transparency – best practice**

**If you would like to go beyond the mandatory rules on price transparency, your website can also state:**

**1) Your indicative fees for your most commonly provided legal services, the circumstances in which they may vary, whether your fees include VAT (where applicable), and likely additional costs.**

You must state your most commonly used pricing models for legal services – see the mandatory rules on price transparency in section 1. You can go beyond this by stating your indicative fees for your most commonly provided legal services, and the circumstances in

which they may vary. For example, a fixed fee and the circumstances in which additional fees may be charged, or an hourly rate by seniority of barrister. If you state your indicative fees, you should also state whether they include VAT (where applicable). You can also state likely additional costs (for example, court fees), what they cover and either the cost or, if this can only be estimated, the typical range of costs.

This is mandatory for those who must comply with additional price transparency rules in relation to Public Access services (the specific circumstances in which price transparency requirements apply in relation to Public Access services can be found at Annexes C – J). It is not mandatory for others, but the price information will be particularly useful if your clients are less experienced and less expert consumers, and/or instruct you on a Public Access basis. This will help consumers to “shop around” for legal services. If you are undertaking referral work, you may take the view that it would be more appropriate for your client’s solicitors to provide information about likely additional costs (given barristers are not permitted to hold client money, and therefore solicitors normally pay disbursements). However, you can still state that while likely additional costs such as court fees are not included in your indicative fees, they could be a key factor which determines price, and therefore clients should discuss them with their solicitor.

If you state your fees for your most commonly provided legal services on your website, you should state that they are indicative only. You should also give careful consideration to how you state your indicative fees, depending on whether you are a self-employed barrister in chambers, sole practitioner or BSB entity, and taking into account the need to avoid breaching competition law. For guidance on this, see the mandatory rules on price transparency in section 2.

**2) Information about the typical range of costs for different stages of cases (where appropriate).**

If you provide the Public Access services listed in the current version of the BSB's price transparency policy statement (Annex B), your website must also state and provide a description of those legal services. The description must include a concise statement of the key stages – see the mandatory rules on service transparency in section 2. It is not mandatory for others to provide a statement of the key stages of services.

However, if you do provide a statement of the key stages of services (either by choice or because this is mandatory), it may be useful for you to provide information about the typical range of costs for these stages. By helping consumers to understand how much the different stages of the case may cost, you may help them to budget. Nonetheless, the typical range of costs for different stages of the case may be very wide (for example, in complex contested disputes). In these cases, you should consider whether providing this information would in fact improve consumer understanding.

**3) Information about how to avoid/manage the risk of costs increasing significantly, and any price flexibility.**

If your clients are less experienced and less expert consumers, and/or instruct you on a Public Access basis, it may be particularly useful for you to provide information about how to avoid/manage the risk of costs increasing significantly. In many cases, this information will be specific to the service in question. However, it will help to manage consumers' anxiety about the cost associated with obtaining legal advice and representation.

If your clients are less experienced and less expert consumers, and/or instruct you on a Public Access basis, it may also be particularly useful for you to highlight any potential price flexibility. For example:

*“Unless our barristers are charging fixed fees or a fixed hourly rate, you are invited to discuss the level of your fees with us in terms of your particular case and personal circumstances. For more information, please contact the clerks.”*

If this potential price flexibility is not referred to on websites, some consumers may wrongly assume that they cannot afford legal advice or representation. You can also include information about whether you are willing to offer innovative pricing structures. For example, an initial meeting to discuss a case either for free or a fixed fee, or staged payment plans.

#### **4) Information about legal insurance.**

If your clients are less experienced and less expert consumers, and/or instruct you on a Public Access basis, it may be particularly useful for you to include information about legal insurance. For example, some clients:

- May not know the difference between before the event insurance and after the event insurance;
- May not realise that they already have before the event insurance; for example, through membership of a trade union, or as part of a financial product they have purchased;
- May not know that after the event insurance might be appropriate; for example, if they are instructing you on a Public Access basis under a conditional fee agreement (a “no win, no fee” agreement). For more information, see the BSB’s [Guidance on After the Event Insurance](#).

You can either cover these points on your website or you can link to the legal insurance page on the Legal Choices website: <https://www.legalchoices.org.uk/legal-choices/money-talks/after-the-event-insurance/>. The website is run by the legal regulators and makes information available to assist consumers.

Which? also has a guide on legal insurance on its website, which you can link to: <https://www.which.co.uk/money/insurance/legal-expenses-insurance/guides>.

### **5) Information about legal aid eligibility.**

If you practise in an area in which clients may be eligible for legal aid, it may be useful for you to link to the legal aid eligibility calculator on the gov.uk website: <https://www.gov.uk/check-legal-aid>. This will help prospective clients to understand whether they may be eligible for legal aid. However, if you do so, you should explain that barristers cannot do legal aid work unless they have been instructed by a solicitor.

If your clients instruct you on a Public Access basis, each client will need to make an informed decision about whether to apply for legal aid, or proceed with Public Access (Rule C120.3 in the BSB Handbook). It will therefore be particularly useful for you to link to the legal aid eligibility calculator above.

### **6) Information about any third party payment services you use.**

Barristers and BSB entities are not permitted to hold client money (apart from the money clients pay them for their services). Some barristers and BSB entities therefore use third party payment services for making payments to, from, or on behalf of clients.

If you use a third party payment service, it may be useful for you to explain:

- How it works – the service will receive money from clients for legal services. This could include legal fees, alternative dispute resolution (ADR) costs, settlement money and disbursements (money lawyers spend on behalf of clients, such as fees for expert witnesses); The service holds the money separately from their own money; Any money paid in by a client can only be paid out with their consent;
- The fees for using the service;

- The service is insured. You can state by whom;
- The service is authorised/regulated by or registered with the Financial Conduct Authority (FCA). You can also provide the FCA reference number; and
- Clients can complain to the Financial Ombudsman Service.

**7) You, barristers in chambers or the BSB entity is registered for VAT, and you can provide your VAT number(s) on request.**

This may be useful to professional clients such as solicitors.

**Service transparency – best practice**

**If you would like to go beyond the mandatory rules on service transparency, your website can also state:**

**1) As part of the description of your most commonly provided legal services, a concise statement of the key stages and an indicative timescale for the key stages.**

You must state and provide a description of your most commonly provided legal services – see the mandatory rules on service transparency in section 1. The description can also include a concise statement of the key stages and an indicative timescale for the key stages.

This is mandatory for those who must comply with additional price transparency rules in relation to Public Access services (the specific circumstances in which price transparency requirements apply in relation to Public Access services can be found at Annexes C – J). It is not mandatory for others, but the information will be particularly useful if your clients are less experienced and less expert consumers, and/or instruct you on a Public Access basis.

A concise statement of the key stages will ensure consumers have a basic knowledge of the legal services, and may help them to assess how feasible ‘unbundling’ would be – assuming



responsibility for some aspects of the case themselves, if they are able to do so. If it would not always be obvious to a client what a stage of the service is, provide a short explanation. This will ensure consumers sufficiently understand the service you are providing.

An indicative timescale for the key stages will also help consumers to understand what they can expect from a case and from you, and manage those expectations. However, we recognise that timescales will be indicative only and so we recommend a concise statement which assists clients in making informed choices, rather than detailed information about timescales. It will also be useful for you to state whether indicative timescales include possible appeals.

Finally, it will be useful for you to explain any limitations of the service you are able to offer. For example, if you/barristers in chambers are not authorised to conduct litigation and if relevant to the legal service in question, it will be useful for you to explain that Public Access clients will need to issue proceedings, file documents at court and serve documents on other parties themselves. The BSB's [Guidance on Conducting Litigation](#) will help you to explain this where relevant.

## **2) The nature of your business.**

If your clients are less experienced and less expert consumers, and/or instruct you on a Public Access basis, it may be particularly useful for you to explain that self-employed barristers in chambers are separate and independent from one another, and not responsible for one another's work.

Similarly, if you are a BSB entity it may be useful for you to explain the nature of your business: a company, partnership or limited liability partnership (LLP). Websites should not create the impression of a chambers with self-employed barristers. If the entity is a company or LLP, you can also include your registered name (if different from your trading name) and number.

### **3) The mix of people commonly involved in providing services.**

Self-employed barristers can outsource work to pupils, other barristers in the same chambers, and other third parties, subject to rules on confidentiality and outsourcing. However, the barrister remains responsible to the client for the work. (Barristers must also ensure consumers' data is kept safe and secure, and handled according to the General Data Protection Regulation [GDPR]).

If you are a sole practitioner or chambers, you may therefore decide it is not necessary for your website to state the 'mix' of people commonly involved in providing legal services. Nevertheless, if your clients are less experienced and less expert consumers, and/or instruct you on a Public Access basis, it may be useful for you to explain that members of chambers can work together on the same case, but they remain separate and independent from one another. It may also be useful for you to explain the role of your clerks and what clients can expect from them.

BSB entities are more likely to operate similarly to law firms authorised by the SRA, with a mix of staff providing services. If you are a BSB entity with a mix of staff providing services, it may be particularly useful for your website to state this. For example:

*“Our team is led by Barrister A and your case will be assigned to either Barrister B or Solicitor C. D (a paralegal) may also contact you about your case.”*

This will help consumers to understand how your business operates, and what they can expect from your staff.

### **4) Information about you and your practice, and how to instruct you.**

The Bar already provides a significant amount of information about its practices on chambers' and barristers' websites. If you do not do so already, you can consider including:

- Details of cases you have undertaken (subject to rules on confidentiality);
- Your directory recommendations, such as those in [Chambers and Partners](#) and the [Legal 500](#);
- The advantages of instructing you, such as a particular expertise or the benefits of early legal advice;
- Quality indicators such as accreditation schemes or quality marks;
- Links to practice related publications; and
- The terms on which you undertake work, such as the Bar Council's [standard contractual terms](#) or the standard terms of a Specialist Bar Association (SBA). It may be useful to provide a plain English summary of the terms where appropriate.

Providing this additional service information (particularly alongside price information) will help clients to decide whether to instruct you. If your clients instruct you on a Public Access basis, it may be particularly useful for you to set out how to do so. For example:

*“Try to clarify the nature of your problem and what it is that you want one of our barristers to do. Please contact the clerks and tell them that you wish to instruct a barrister directly. They will be happy to help.”*

#### **5) Information for people with disabilities and language requirements on how to access your services, and request reasonable adjustments.**

For example, you can include the following information about your premises: the number of steps, width of doorways, parking facilities, toilet facilities, hearing loops, etc. This will mean those affected will not need to contact you before coming to your premises. You can also include information about translation services (and the cost of those services) where that may be beneficial to meeting consumer need.

In addition, it may be useful for you to provide a copy of your reasonable adjustments policy on your website. You are required to have a policy under the Equality Rules in the BSB Handbook.

For more information and a model policy, see the BSB's [Supporting Guidance on the Equality Rules](#). The guidance states “chambers should state on its website and in any publicity material that reasonable adjustments will be made and should identify the person or persons to whom requests should be made”.

#### **6) Information about the Legal Choices website.**

This is run by the legal regulators and provides help with choosing a provider, information about costs, how to complain about a provider and more. The link is <https://www.legalchoices.org.uk/>.

#### **7) Information about further sources of support and advice.**

For example, you can link to and provide contact telephone numbers for:

[Advice UK](#): a network of advice centres across the country.

[Advocate](#): free advice and representation on legal matters (applications-based). Contact: 020 7092 3960.

[Citizens Advice](#): free, independent and impartial advice on a range of issues and rights. Advice Line: 03444 111 444 (England); 03444 77 20 20 (Wales).

[Law Centres Network](#): search for local law centres in England.

[Law Works](#): connects people in need of legal advice with lawyers who are able to help for free. Searchable directory of local legal advice clinics in England and Wales.

[Personal Support Unit](#): provides advice, information and support for litigants in person (those representing themselves in court). Telephone: 020 7073 4760.

[Samaritans](#): helpline support for anyone who wants to talk to someone about the problems they are facing in their life. Helpline: 116 123.

[The Money Advice Service](#): free, confidential advice about managing finances and dealing with debts. Advice line: 0800 138 7777.

You can also consider including information about further sources of support and advice which are specific to your practice area.

### **Redress transparency – best practice**

**If you would like to go beyond the mandatory rules on redress transparency, your website can also state:**

**1) You have professional indemnity insurance cover for all the legal services you supply to the public.**

Self-employed barristers must be members of the BMIF and take out at least the minimum level of cover, which is £500,000. BMIF's maximum limit of cover is £2.5 million. Self-employed barristers must also have insurance which covers all the legal services they supply to the public. Some must therefore take out additional cover with other insurers.

BSB entities must also have insurance which covers all the legal services they supply to the public.

In addition to stating that you have cover for all the legal services you supply to the public, your website can also state:

- The name of your insurer(s);
- Their contact details; and

- The territorial coverage of the insurance. For example, some coverage is worldwide subject to certain exclusions.

If your clients are less experienced and less expert consumers, and/or instruct you on a Public Access basis, it may be particularly useful for you to explain that professional indemnity insurance covers you if you make a mistake which causes a client to lose money. This will assure clients that they will not lose out financially.

## **2) Information about any alternative dispute resolution (ADR) services you use.**

When clients instruct you, you must notify them in writing of an ADR provider which can deal with any complaint if you are unable to resolve the complaint through your complaints process, *and* both you and the client agree to use the scheme. You are therefore not required to use ADR, and must only inform the client of the option (under the Alternative Dispute Resolution for Consumer Disputes (Amendment) Regulations 2015). The client is also still entitled to complain to LeO.

You can also include this information on your website. The Chartered Trading Standards Institute (CTSI) approves ADR entities which are able to provide mediation services. At the time of writing, you can use [ProMediate](#) or [Small Claims Mediation](#). You should consider which provider may be the most appropriate for you and your clients.

If mediation does not resolve the complaint, the client may still complain to LeO. For more information, see the BSB's [Guidance on First Tier Complaints Handling](#).

## **3) You, barristers in chambers or the BSB entity is registered with the Information Commissioner's Office (ICO).**

Under the General Data Protection Regulation (GDPR), self-employed barristers must be registered with the [ICO](#) individually. BSB entities must also be registered with the ICO.

Stating that you are registered with the ICO and providing your registration number will assure consumers their data will be kept safe and secure, and handled according to the legislation. You can include these details in your privacy notice, which you are required to have under the legislation.

#### **4) Websites can also display the BSB's logo.**

This will help to give consumers assurance that you are regulated by the BSB. If you do display the BSB's logo, it is important that you ensure you are using the current version. E-mail [ContactUs@BarStandardsBoard.org.uk](mailto:ContactUs@BarStandardsBoard.org.uk) for a file of the current version of the logo – once we have verified your website address(es), we will send this to you.

#### **Providing information – best practice**

The legal regulators commissioned research into client care letters to find out how they can be most useful to clients.<sup>1</sup> While the research focused on client care letters, the principles identified are applicable to all written communications, including websites.

Considering the principles will help you to comply with the transparency rules in the most effective way. The principles are:

- **Show a clear purpose** – what is the information about? Why is it important?
- **Keep it concise** – is it too long? Is the structure clear?
- **Put it in plain English** – is there any jargon? Are sentence structures short and simple? The [Plain English Campaign's website](#) has a number of free guides that you may find useful.
- **Prioritise information** – focus on information that is most relevant to clients and prospective clients. Put key information at the beginning.

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<sup>1</sup> [https://www.barstandardsboard.org.uk/media/1794566/client\\_care\\_letters\\_research\\_report\\_-\\_final\\_021116.pdf](https://www.barstandardsboard.org.uk/media/1794566/client_care_letters_research_report_-_final_021116.pdf)

- **Personalise information** – use personal pronouns (I, you, etc.) and specifics about you and your practice (where this is relevant).
- **Make it easy to read** – is it too text-heavy? Should you use bullet points, tables or headings? Use appropriate spacing.
- **Highlight key information** – use visual tools. For example, bold text, summary boxes and highlighting to draw attention.
- **Consider additional opportunities to engage clients and prospective clients** – for example, is some information better provided in another format, such as audio visual content or a fact sheet? Is some information better provided at a later stage, such as when first meeting a client?

### **Website accessibility – best practice**

For many consumers, a website can be an important source of information and is often the first contact they will have with you. You should seek to remove barriers that prevent interaction with or access to your website, particularly for people with disabilities and language requirements.

If your website is not easy to read or navigate, or content is difficult to understand, it could deter clients from seeking your services. For example, consider whether consumers would struggle with small font sizes, colours, jargon they cannot be expected to understand or, if accessing your website via a mobile device, small buttons. You can also consider providing website content in different languages where that may be beneficial to meeting consumer need. Remote access via video calling may be an option for clients who, due to location, would otherwise not be able to access your services.

The [Web Content Accessibility Guidelines](#) (WCAG) are an internationally recognised set of recommendations for improving web accessibility. For tips on getting started with web accessibility, visit the Web Accessibility Initiative's website:



<https://www.w3.org/WAI/gettingstarted/>. It explains how to make digital services accessible to everyone. You can also consider installing software to ensure website accessibility.

### **Transparency of third party providers – best practice**

It is common, particularly in Public Access, for barristers to appoint marketing or advertising businesses to promote their services.

Third parties may also set up services (which are often web-based platforms) to introduce Public Access clients to barristers. If you are obtaining work from a third party introducer, you are practising in ‘an association’ and must notify the BSB’s Supervision Department ([Supervision@BarStandardsBoard.org.uk](mailto:Supervision@BarStandardsBoard.org.uk)).

The BSB’s transparency rules do not apply to non-regulated, third party providers. However, barristers who have appointed marketing or advertising businesses and/or obtain work from third party introducers may wish to consider their arrangements with such providers in light of their own transparency obligations. For example, barristers may wish to only enter into arrangements with providers which comply with the spirit of the BSB’s transparency rules.

In any event, barristers are encouraged to undertake appropriate due diligence on third parties and how their services operate before agreeing to use them. This includes considering whether practices lack transparency for clients and are potentially anti-competitive. Barristers must also take steps to ensure that:

- They do not breach the prohibition on paying or receiving referral fees. The BSB has published [Guidance on Referral and Marketing Arrangements](#);
- They do not enter into terms which interfere with their duties to act independently and in their clients’ best interests (Core Duties 2 and 4 of the BSB Handbook);
- Any advertising and marketing material is accurate, clear and not likely to mislead;

- Clients are not confused about who is responsible for providing legal services, and are clear about both the third party's fees, and the barrister's fees for legal services; and
- Clients are not confused about which services are regulated by the BSB, or about what redress they have (and against whom) if things go wrong. Under Rule C99 in the BSB Handbook, clients must be notified in writing about their right to complain to the barrister/chambers, right to complain to LeO (if any) and right to complain to any third party.