

CURRENT GUIDANCE

Transparency Standards Guidance – Section 4

Checklists, and supervision and enforcement

We have provided the checklists below to help you comply with the transparency rules – references to the BSB Handbook are in brackets. We have also provided information about the BSB’s supervision and enforcement strategy.

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Checklist – mandatory rules on price, service and redress transparency for everyone

| Does your website... | Yes/No |
|--|--------|
| State that professional, licensed access, and/or lay clients (as appropriate) may contact the barrister, chambers or BSB entity to obtain a quotation for legal services? (Rule C159.1) | |
| Provide contact details? (Rule C159.1) | |
| State the barrister, chambers or BSB entity’s most commonly used pricing models for legal services, such a fixed fee or hourly rate? (Rule C159.2) | |
| State the areas of practice in which the barrister, chambers or BSB entity most commonly provides legal services? (Rule C159.3) | |
| State and provide a description of the barrister, chambers or BSB entity’s most commonly provided legal services? (Rule C159.3) | |
| Provide information about the factors which might influence the timescales of the barrister, chambers or BSB entity’s most commonly provided legal services? (Rule C159.4) | |
| Display the appropriate “ <i>regulated by the Bar Standards Board</i> ” text <u>on the homepage</u> ? (Rule C103.1) | |
| Display information about your complaints procedure, any right to complain to the Legal Ombudsman (LeO), how to complain to LeO, and any time limits for making a complaint? (Rule C103.2.a) | |
| Link to the decision data on LeO’s website? (Rule C103.2.b) | |
| Link to the Barristers’ Register page on the BSB’s website? (Rule C103.2.c) | |

| Have you also ensured that... | Yes/No |
|---|--------|
| The required information is sufficiently accessible and prominent on your website? (Rule C159) | |
| The required information is accurate and up to date? (Rule C160) | |
| The required information is readily available in alternative format (an example can be found at Annex A)? (Rule C161) | |
| All professional e-mail and letterheads display the appropriate <i>“regulated by the Bar Standards Board”</i> text? (Rule C103) | |
| Date of review | |
| Name of reviewer | |
| Date of next review (reviews must be done at least annually – Rule C160) | |
| Person responsible for next review | |

It is recommended that you keep copies of this checklist. This will allow you to demonstrate to the BSB that you have done the necessary reviews. In addition, it is recommended that website pages state the date on which they were last reviewed.

Checklist – additional transparency rules for those undertaking Public Access work

| Does your website... | Yes/No |
|---|---------------|
| Link to the Public Access Guidance for Lay Clients page on the BSB's website? (Rule C164) | |
| If you provide the Public Access services listed in the BSB's price transparency policy statement (Annex B), does your website... | Yes/No |
| State your pricing model(s), such as fixed fee or hourly rate? (Rule C166.1) | |
| State your indicative fees and the circumstances in which they may vary? (Rule C166.2) | |
| State whether your fees include VAT (where applicable)? (Rule C166.3) | |
| State likely additional costs, what they cover and either the cost or, if this can only be estimated, the typical range of costs? (Rule C166.4) | |
| State and provide a description of the relevant Public Access services, including a concise statement of the key stages and an indicative timescale for the key stages? (Rule C168) | |
| Have you also ensured that... | Yes/No |
| The required information is sufficiently accessible and prominent on your website? (Rule C166) | |
| The required information is accurate and up to date? (Rule C160) | |
| The required information is readily available in alternative format? (Rule C161) | |
| Date of review | |

| | |
|---|--|
| Name of reviewer | |
| Date of next review (reviews must be done at least annually – Rule C160) | |
| Person responsible for next review | |

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Checklist – additional best practice on transparency for everyone

In considering whether to adopt these best practice suggestions, you should think about whether providing the information would improve consumer understanding, and therefore help consumers to make informed decisions about their case.

| Price transparency – does your website... | Yes/No |
|--|---------------|
| (Where this is not mandatory) 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? | |
| State that you, barristers in chambers or the BSB entity is registered for VAT, and you can provide your VAT number(s) on request? | |
| Service transparency – does your website... | Yes/No |
| 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? | |
| Include information about further sources of support and advice? | |
| Redress transparency – does your website... | Yes/No |
| 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)? | |
| Display the BSB’s logo? | |
| Have you also ensured that... | Yes/No |
| The information is sufficiently accessible and prominent on your website? | |
| The information is accurate and up to date? | |
| The information is readily available in alternative format? | |
| Date of review | |
| Name of reviewer | |
| Date of next review | |
| Person responsible for next review | |

Supervision and enforcement

The BSB's risk-based approach to supervision means that resources are targeted at chambers, BSB entities, individuals, or areas which present the greatest risk. It is intended to encourage more effective risk management by chambers and BSB entities, and improve regulatory compliance. Where issues are identified through supervision the BSB seeks, where possible and appropriate, to address them with the chambers, entity or individual concerned before resorting to enforcement action.

To ensure compliance with the transparency rules, the BSB will undertake spot-checking from January 2020. This will focus on barristers who are at higher risk of non-compliance with the transparency rules, supplemented with a random sample of self-employed barristers, chambers, and BSB entities. Higher risk will be established, among other things, with reference to a barrister's history of regulatory compliance. Spot-checking may also take place:

- In higher risk practice areas such as immigration and family law, which are likely to have more vulnerable consumers;
- In practice areas with less bespoke services, where price transparency is particularly useful for consumers;
- In relation to the Public Access services which are subject to additional price transparency requirements, as set out in the BSB's price transparency policy statement (Annex B); and
- In relation to the requirement that information must be readily available in alternative format, and provided on request e.g. if you do not operate a website, or a client or prospective client does not have Internet access.

We have provided checklists to help you comply with the transparency rules – see above. It is recommended that you keep copies of checklists. This will allow you to demonstrate to the BSB that you have sought to comply with the transparency rules, and reviewed your website content at least annually. In addition, it is recommended that website pages state the date on which they were last reviewed.

In the first instance, non-compliance will generally be dealt with through supervisory action. This will include recommendations (referred to as ‘corrective action’) where barristers appear not to have complied with the transparency rules, or appear to risk breaching competition law. Examples of corrective actions could be to ensure the required information is:

- Uploaded to or updated on websites within a reasonable time period;
- Made sufficiently accessible and prominent on websites;
- Corrected so that it does not mislead clients and prospective clients (which would breach the BSB Handbook); and
- Amended to minimise the risks of breaching competition law.

This means that our focus will not be on enforcement action, but on ensuring compliance with the transparency rules. This will be a more effective approach as well as being a better use of our resources. Referral to enforcement action will be reserved for persistent non-compliance or non-cooperation. As the BSB does not have competition law powers, we may also refer specific practices to the CMA where we consider this necessary and appropriate.