

**CURRENT GUIDANCE**

## Transparency Standards Guidance – Section 2

### Additional transparency rules for those undertaking Public Access work

This includes self-employed barristers undertaking Public Access work, and BSB entities supplying legal services directly to the public.

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## **Summary**

If some or all of the barristers practising from a chambers are undertaking Public Access work, or if a BSB entity is supplying legal services directly to the public, websites must link to the [Public Access Guidance for Lay Clients](#) page on the BSB's website.

If the Public Access services listed in the BSB's price transparency policy statement (Annex B) are being provided, websites must:

- State which pricing model(s) are used, such as fixed fee or hourly rate;
- State indicative fees and the circumstances in which they may vary;
- State whether fees include VAT (where applicable);
- State likely additional costs, what they cover, and either the cost or, if this can only be estimated, the typical range of costs; and
- 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.

The required information must be sufficiently accessible and prominent on websites, accurate and up to date, and readily available in alternative format.

## **Price transparency – mandatory rules for those undertaking Public Access work**

**1) 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 the following in relation to those legal services:**

- **Your pricing model(s), such as fixed fee or hourly rate;**

- **Your indicative fees 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;**
- **Whether your fees include VAT (where applicable); and**
- **Likely additional costs, what they cover and either the cost or, if this can only be estimated, the typical range of costs.**

If you provide the Public Access services listed in the current version of the BSB's price transparency policy statement (Annex B), you must comply with additional price transparency rules in relation to those legal services.

In this case, your website must state your pricing model(s) in relation to those legal services; for example, fixed fee, hourly rate, etc. This will ensure consumers are aware of the pricing model(s) that you use for the service in question (it will be acceptable to state that pricing models are only available in certain circumstances). It may be useful for you to explain the pricing model(s). A list of commonly used pricing models, along with an explanation for each one, can be found at Annex K.

You must also state your indicative fees for the service in question 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. Fees may also vary depending on where barristers are located (say, a regional annex of chambers), or the client's needs – fees may be higher if the client has a more complex case and/or needs a more experienced barrister. This information will help consumers to “shop around” for the service. We recognise that fees will be indicative only, and this should be stated on your website. For example:

*“All information is correct as of X, but fees are estimates only. For a quotation, please contact the clerks on XX (or e-mail XX).”*

You must also state whether your fees include VAT (where applicable).

Finally, you must 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. Where appropriate, you can link to external websites (for example, the [court and tribunal fees](#) section of gov.uk).

For each Public Access service listed in the current version of the BSB's price transparency policy statement (Annex B), the specific circumstances in which price transparency requirements apply and an example of the required price and service transparency can be found at Annexes C – J.

You may also find the Legal Ombudsman's (LeO's) [view of good costs service](#) useful in stating your pricing model(s) and your indicative fees and the circumstances in which they may vary. Disputes about costs are one of the most frequent areas of complaint. The provision of clear information is the best way of avoiding such complaints.

**2) You must state your pricing model(s), your indicative fees and the circumstances in which they may vary, whether your fees include VAT (where applicable), and likely additional costs, as follows:**

- **If asked to accept instructions at short notice, as soon as reasonably practicable after accepting instructions;**
- **For a sole practitioner, in relation to you as an individual barrister;**
- **For a BSB entity, in relation to the entity; and**
- **For a chambers, either in relation to (1) individual barristers, or (2) barristers in chambers in the form of ranges or average fees.**

We recognise that you may not currently be providing the Public Access services listed in the current version of the BSB's price transparency policy statement (Annex B), but may be

asked to accept instructions to do so at short notice. In this case, you will not need to comply with additional price transparency rules before accepting instructions. However, you must do so as soon as reasonably practicable after accepting instructions.

How you comply with additional price transparency rules will also depend on whether you are a self-employed barrister in chambers, sole practitioner or BSB entity. Sole practitioners and BSB entities are what is known as ‘single economic units’. This means that you contract with clients, and set fees as a standard offering. A sole practitioner will do this individually, and a BSB entity will do this for the whole entity. If you are a BSB entity, it may also be useful for you to state whether the Public Access service in question would normally be provided by a more senior or junior member of staff.

However, unlike sole practitioners and BSB entities, chambers are not single economic units as they are made up of a number of self-employed barristers. This means that chambers do not contract with clients, and cannot set fees as a standard offering. It also means that self-employed barristers in chambers have the option of providing:

- Price information for each individual barrister (option one); or
- Price information in the form of ranges or average fees for barristers in chambers (option two).

Providing price information for each individual barrister (option one) may not help consumers to “shop around” for legal services. The larger your chambers, the more appropriate it will be for you to provide price information in the form of ranges or average fees for barristers in chambers (option two). It will be easier for consumers to understand, and easier for you to administer and keep updated.

If you use option two, you should state the basis on which you are providing price information for barristers in chambers – either ranges or average fees. These indicative fees must be accompanied with the circumstances in which they may vary. For example, fees for

barristers in chambers may vary depending on the client's needs – fees may be higher if the client has a more complex case and/or needs a more experienced barrister. Fees for barristers in chambers may also vary depending on the seniority of barrister, or where barristers are located (say, a regional annex of chambers). If you use option two, you can provide price information for barristers in chambers (either ranges or average fees):

- On the basis of all barristers in chambers;
- By seniority of barrister; or
- By location/annex of chambers.

You should consider which type of price information would be most useful for your clients.

Whether you use option one or two, you must ensure that self-employed barristers in chambers remain able to compete with each other. This means that chambers must not set fees as a standard offering, and barristers must not co-ordinate with each other to keep prices at a certain level, agree to charge the same prices, or put mechanisms in place for setting prices. Doing so could risk breaching competition law. The CMA has produced [guidance on complying with competition law](#), and a [four-step competition law compliance process](#). You should have regard to these documents.

It is also important to ensure that barristers do not risk breaching competition law where they practise from different chambers and BSB entities, or operate multiple websites as part of their practice (for example, a barrister may operate a separate website for some Public Access work). Again in these circumstances, barristers must not co-ordinate with each other to keep prices at a certain level, agree to charge the same prices, or put mechanisms in place for setting prices.

If you are involved in setting prices for a BSB entity and also practise as a self-employed barrister (either as a sole practitioner or from chambers), you may be competing directly with the BSB entity and/or its partners and employees (if they also practise in a self-

employed capacity). In this case, you should consider seeking specialist advice to ensure that you do not risk breaching competition law. You may be advised to establish internal rules on who is allowed to set the BSB entity's prices where they relate to offering similar services to the same set of customers in the same geographic market. To comply with competition law, you will need to prevent the exchange of commercially sensitive price information between competitors.

*The mandatory rules on price transparency are a minimum standard which must be met. However, we encourage you to go beyond this – see the additional best practice on price transparency in section 3.*

### **Service transparency – mandatory rules for those undertaking Public Access work**

**1) Websites must link to the Public Access Guidance for Lay Clients page on the BSB's website.**

This is only required if some or all of the barristers practising from a chambers are undertaking Public Access work, or if a BSB entity is supplying legal services directly to the public. It will help members of the public to understand how the Public Access scheme works, and explain how they can use it to instruct barristers directly.

The link to the Public Access Guidance for Lay Clients page on the BSB's website is <https://www.barstandardsboard.org.uk/regulatory-requirements/bsb-handbook/public-access-guidance-for-lay-clients/>.

**2) 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 and an indicative timescale for the key stages. This must be done in a way which ensures consumers sufficiently understand the service.**

If you provide the Public Access services listed in the current version of the BSB's price transparency policy statement (Annex B), you must comply with additional price transparency rules in relation to those legal services. See the mandatory rules on price transparency in section 1.

In this case, your website must also state and provide a description of those legal services. The description must include a concise statement of the key stages to ensure that consumers sufficiently understand the service you are providing.

If it would not be obvious to a lay client what a stage of the service is, provide a short explanation. This 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.

The description must also include an indicative timescale for the key stages of the service. This will help consumers to understand what they can expect from the case and from you, and manage those expectations. However, we recognise that timescales will be indicative only and so we only require 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. For example:

*“As a guide, court hearings for an order tend to take six to twelve months. This does not 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.



For each Public Access service listed in the current version of the BSB's price transparency policy statement (Annex B), the specific circumstances in which price transparency requirements apply and an example of the required price and service transparency can be found at Annexes C – J.

*The mandatory rules on service transparency are a minimum standard which must be met. However, we encourage you to go beyond this – see the additional best practice on service transparency in section 3.*