

BAR STANDARDS BOARD

REGULATING BARRISTERS

BSB commitment to wellbeing

1. The statutory Regulatory Objectives of the Bar Standards Board as prescribed in the Legal Services Act 2007 include:
 - protecting and promoting the public interest;
 - supporting the constitutional principle of the rule of law;
 - improving access to justice;
 - protecting and promoting the interests of consumers;
 - promoting competition in the provision of legal services;
 - encouraging an independent, strong, diverse and effective legal profession;
 - increasing public understanding of the citizen's legal rights and duties; and
 - promoting and maintaining adherence to the professional principles.
2. Consistent with these regulatory objectives, the BSB Handbook sets out the Core Duties of barristers. These include barristers' duty to the court in the administration of justice and duty to act in the best interests of each client and, in doing so, to provide a competent standard of work and service.
3. The Bar Standards Board recognises that the wellbeing of barristers is important if barristers are to meet their own duties and, accordingly, that it also matters to the achievement of the BSB's broader regulatory objectives. In promoting the objective of encouraging an independent, strong, diverse and effective legal profession we believe there should be a sustainable number of suitably qualified and experienced barristers in any given area of law. If that ceases to be the case because experienced practitioners leave, that will also be contrary to the interests of consumers and access to justice. A more inclusive culture in the profession may help to slow or reverse such trends, where they occur.
4. In the BSB's Equality Strategy we recognise that there is a continuing need to improve the culture at the Bar and to ensure a supportive environment for all barristers and pupils. This is necessary to achieve our objective of encouraging an independent, strong, diverse and effective profession. In implementing our Equality Strategy we will have regard to whether any working practices have negative consequences for practitioners' health and wellbeing and for equality and diversity in the profession. It is not generally in clients' interests to be represented by someone who is unwell or exhausted; nor is it in the interests of justice. The profession will also struggle to be inclusive and to reflect the society it serves if certain groups of barristers disproportionately experience poor wellbeing. We want to ensure that wellbeing issues do not prevent the progression of barristers from a diverse range of backgrounds, the retention of experienced practitioners or the return of experienced barristers to the profession. In an inclusive profession, it is important that barristers can combine working life with family life and caring responsibilities. We will bear these issues in mind when we consider the following activities in our Equality Strategy:
 - a. Updating our equality rules;
 - b. Setting our expectations of chambers;
 - c. Publishing good practice examples; and
 - d. Strengthening governance responsibilities for the promotion of equality and inclusion.

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5. The Bar Standards Board supports flexible working and accepts that barristers are entitled to take reasonable steps to regulate their working hours, subject to being reasonably available for any continuing hearings. Under rC30 in our Handbook, the “cab-rank” rule, barristers are not therefore obliged to accept instructions “that would require them to do something other than in the course of their ordinary working time”. We do not seek to define “ordinary working time” in terms of a set number of hours because we recognise that the hours which individual barristers choose to work may vary and “ordinary working time” must be seen in terms of an individual barrister’s normal working patterns. Similarly, barristers are not obliged to accept instructions if they are not offered “a proper fee” for their services and it is for individual barristers to determine what “a proper fee” might be.
6. We are also determined to eliminate bullying, discrimination and harassment at the Bar. We regard such behaviour as serious professional misconduct, and we welcome the increase in the possible sanctions for such misconduct in the new Sanctions Guidance from the Bar Tribunals and Adjudication and Service which took effect from 1 January 2022. All barristers, their clients and others with whom they work, are entitled to be treated with courtesy and respect at all times. Making unreasonable demands on others that require them to work outside their normal working hours may be seen as a breach of those standards and may be regarded as potential professional misconduct.
7. Finally, in regulating the Bar in the public interest the Bar Standards Board will always seek to minimise the costs and burdens of regulation. We will seek to deal with our essential regulatory activities (including requests for authorisations, waivers and exemptions and reports of potential misconduct) as efficiently as possible. We will always bear in mind the wellbeing of all those who are involved in actual or potential disciplinary action. We will also seek to ensure that all our stakeholders are given the opportunity to contribute to our policy making.