

THE BSB HANDBOOK

PART III – SCOPE OF PRACTICE, AUTHORISATION AND LICENSING RULES

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A. SUMMARY AND APPLICATION OF THESE RULES

1. Section B of this Part III provides that you must not practise as a *barrister* or carry on any *reserved legal activity* unless you are authorised to do so, and explains the different capacities within which you may work if you are so authorised and any limitations on the scope of your practice. It also explains the further requirements which you must follow if you intend to work in more than one capacity. The Section applies to all *BSB regulated persons*, and “You” and “Your” should be construed accordingly.
2. Section C of this Part III sets out the basis upon which *barristers* and *registered European lawyers* should apply to obtain a *practising certificate* which shall entitle them to practise within England and Wales.
3. Section D of this Part III provides specific details about how a *European lawyer* can become a *registered European lawyer* in England and Wales, thus entitling them to apply for a *practising certificate* in accordance with the provisions of Section B.
4. Section E of this Part III sets out the basis upon which entities may be:
 - 4.1 authorised to practise as either a *barrister only entity* or *legal disciplinary practice*; or
 - 4.2 licensed to practise as a *BSB licensed body*.
5. Section F of this Part III sets out details of the ongoing compliance requirements relevant to BSB authorised bodies.

B. SCOPE OF PRACTICE

B1. No Practice without authorisation

1. You must not carry on any *reserved legal activity* unless you are entitled to undertake that activity under the *LSA*. You are not entitled to carry on any *reserved legal activity*, whether on your own behalf or acting as a *manager* or *employee*, unless you are either authorised or exempt in respect of that reserved activity. Where you are a *manager* or *employee* of a person who, as part of their *business*, supplies services to *the public* or a section of *the public* (with or without a view to profit) which consist of or include the carrying on of *reserved legal activities*, that person must also be entitled to carry on that *reserved legal activity* under the *LSA*.
2. You must not permit any third party who is not authorised or licensed to provide *reserved legal activities* on your behalf.
3. If:
 - 3.1 you are an individual and do not hold a *practising certificate*; or
 - 3.2 you are an entity and you have not been authorised or licensed to provide *reserved legal activities* in accordance with Section E of this Part III,then:
 - (a) you may not practise as a *barrister*, a *registered European lawyer* or as a *BSB authorised body* (as appropriate); and
 - (b) you are not authorised by the *Bar Council* to carry on any *reserved legal activity*.
4. For the purposes of this *Handbook*, and subject to rule 7 below, you practise as a *barrister*, a *registered European lawyer* or a *BSB authorised body* if:
 - 4.1 you supply *legal services* and in connection with the supply of such services:
 - (a) you hold yourself out or allow yourself to be held out as a *barrister*, a *registered European lawyer* or a *BSB authorised body* (as appropriate); or

- (b) you carry on any *reserved legal activity* pursuant to authorisation from the *Bar Council*; or
- 4.2 you act as a *manager* of or have an ownership interest in an *authorised (non-BSB) body* and as such you are required by the rules of that body's *Approved Regulator* to hold a *practising certificate* issued by or be authorised or licensed by the *Bar Council* (as the case may be).
- 5. For the purposes of this Section B of Part III any reference to the supply of *legal services* includes an offer to supply such services.
- 6. Rule 3.1 above does not apply to you if you are a *pupil* in the non-practising six months of pupillage if and insofar as you accept a noting *brief* with the permission of your *pupil-supervisor*, head of *Chambers* or *HOLP*.
- 7. If you are a *barrister* but do not hold a *practising certificate* and you supply *legal services* in the manner provided for in rules 8, 9 or 10 below, then you shall not, by reason of supplying those services:
 - 7.1 be treated for the purposes of this Section B of Part III as practising as a *barrister* or a *registered European lawyer*; or
 - 7.2 be subject to the rules in Part II of this *Handbook* or the rules in this Section B of Part III which apply to *barristers* only if they are in practice as a *barrister*.
- 8. Rule 7 above applies to you if and insofar as:
 - 8.1 you are practising as a *foreign lawyer*; and
 - 8.2 you do not:
 - (c) give advice on *English Law*; or
 - (d) supply *legal services* in connection with any proceedings or contemplated proceedings in England and Wales (other than as an expert witness on foreign law).
- 9. Rule 7 above applies to you if:

- 9.1 you are authorised by another *Approved Regulator* to carry on a *reserved legal activity* and you are currently permitted to practise by that *Approved Regulator*;
- 9.2 you hold yourself out as a *barrister* or a *registered European lawyer* (as appropriate) other than as a *manager* or *employee* of a *BSB authorised body*; and
- 9.3 before supplying *legal services* to any person or *employer* and when first dealing with any third party in the course of supplying *legal services*, you inform them clearly in writing that you are not practising as a *barrister* or a *registered European lawyer*.
10. Rule 7 above applies to you provided that:
- 10.1 you supplied *legal services* prior to 31 March 2012 pursuant to paragraph 206.1 or 206.2 of the 8th Edition of the Code; and
- 10.2 if you supply any *legal services* in England and Wales, you were called to the *Bar* before 31 July 2000; and
- 10.3 before 31 March in each year, and promptly after any change in the details previously supplied to the *Bar Council* (acting by the *Bar Standards Board*), you provide in writing to the *Bar Council* (acting by the *Bar Standards Board*), details of the current address(es) with telephone number(s) of the office or premises from which you do so, and:
- (a) if you are employed, the name, address, telephone number and nature of the *business* of your *employer*; or
- (b) if you are an *employee* or *manager* of, or you have an ownership interest in, an *authorised body*, the name, address, email address, telephone number and the name of the authorised body and its *Approved Regulator*; and
- 10.4 unless you only offer services to your *employer* or to the *authorised body* of which you are a *manager* or an *employee* or which you have an ownership interest in, you are (or, if you are supplying *legal services* to *clients* of your *employer* or *authorised body* of which you are an *owner*, *manager* or an

employee, your *employer* or such body is) currently insured in accordance with the requirements of rule 44 set out in Section D of Part II and that you comply with the requirements of rule 45 in Section E of Part II.

B2. Provision of reserved legal activities and of legal services

11. You may only carry on *reserved legal activities* or supply other *legal services* in accordance with this rule:

11.1 You may only carry on *reserved legal activities* in the following capacities:

- (a) as a *self-employed barrister*, subject to the limitations imposed by rules 19 to 21 below;
- (b) as a *BSB authorised body*, subject to the limitations imposed by rules 23 to 25 below;
- (c) as an *owner* or *manager* of a *BSB authorised body* or as an *employed barrister (BSB authorised body)*, subject to the limitations imposed by rules 27 to 29 below;
- (d) as an *owner*, *manager* or *employee* of an *authorised (non-BSB) body* or as an *employed barrister (authorised non-BSB body)*, subject to the limitations imposed by rules 31 to 32 below; or
- (e) as an *employed barrister (non authorised body)*, subject to the limitations imposed by rules 34 below; or
- (f) as a *registered European lawyer* in any of the above capacities, in which case the equivalent limitations that would have applied if you were practising as a *barrister* shall apply to your practice as a *registered European lawyer*; and

11.2 In each case, in accordance with such further limitations as may be placed on you by this *Handbook* including, in particular, any requirements that may be placed on you under Sections D and E of Part II of this *Handbook* and/or any conditions imposed by the *Bar Standards Board*, and

- 11.3 Where you carry on *reserved legal activities* in one of the foregoing capacities so as to be subject to regulation by the *Bar Standards Board* in respect thereof, any other *legal services* you may supply in that same capacity shall be likewise subject to regulation by the *Bar Standards Board*, even if unreserved;
- 11.4 However, if you are a *barrister*, you may supply *legal services* that are not *reserved legal activities* as an *owner, manager* or *employee* of a separate *Company, partnership* or *LLP* [or as a sole trader] (“*a separate business*”) provided that you do not hold yourself out as a *barrister* in connection therewith and you take all reasonable steps to ensure that *clients* or potential *clients* understand that the separate *business* is not authorised or regulated by the *Bar Standard Board* and nor are your activities in respect of it so authorised or regulated .
12. You may only practise or be involved with the supply of *legal services* (whether *reserved legal activities* or otherwise) in more than one of the capacities listed in rule 11.1 after:
- 12.1 having obtained an amended *practising certificate* from the *Bar Standards Board* which recognises the capacities in respect of which you are intending to practise; and
- 12.2 having agreed with each *employer* or *authorised body* with which you are involved a protocol that enables you to avoid or resolve any conflict of interests or duties arising from practice and/or involvement in those capacities,
- and provided always that you do not work in more than one capacity in relation to the same case or issue for the same *client* at the same time.
13. If you are a *registered European lawyer*, you may only supply *legal services* to *the public* if you have delivered to the *Bar Standards Board* a copy of the current insurance policy or the current certificate of insurance relating to the insurance required by rule 44 of Section D of Part II.
14. If you are a *registered European lawyer*, the *Bar Standards Board* may exempt you from the requirement imposed by rule 13 above:

- 14.1 If you wish to apply for such an exemption, you must provide to the *Bar Standards Board* evidence to show that you are covered by insurance taken out or a guarantee provided in accordance with the rules of your *home State*.
- 14.2 If the *Bar Standards Board* is satisfied that such insurance or guarantee is fully equivalent in terms of conditions and extent of cover to the cover required pursuant to rule 13, the *Bar Standards Board* may exempt you wholly from the requirement imposed by rule 13.
- 14.3 If the *Bar Standards Board* is satisfied that the equivalence is only partial, the *Bar Standards Board* may require you to arrange additional insurance or an additional guarantee to cover the elements which are not already covered by the insurance or guarantee contracted by you in accordance with the rules of your *home State*.
15. If you are a *pupil* who has completed or been exempted from the non-practising six months of pupillage, you may only supply *legal services* to *the public* or exercise any right which you have by reason of being a *barrister* if you have the permission of your *pupil-supervisor*, head of *Chambers* or *HOLP* (as appropriate).
16. If you are a *barrister* of less than three years' standing, you may:
- 16.1 only supply *legal services* to *the public* or exercise any *right of audience* by virtue of authorisation by the *Bar Standards Board*; or
- 16.2 only *conduct litigation* by virtue of authorisation by the *Bar Standards Board*,
- if your principal place of practice (or if you are practising in a dual capacity, each of your principal places of practice) is either:
- (a) a *Chambers* or annex of *Chambers* which is also the principal place of practice of a qualified person who is readily available to provide guidance to you; or
- (b) an office of an organisation of which an *employee*, *partner*, *manager* or *director* is a qualified person who is readily available to provide guidance to you.

17. In rule 16 above, the references to "years' standing" and "qualified person" mean the following:

Years' standing

17.1 You shall be treated as being of a particular number of years' standing if you:

- (a) have been entitled to practise and have practised as a *barrister* (other than as a *pupil* who has not completed pupillage in accordance with the *Bar Training Regulations*) or as a person authorised by another *Approved Regulator*;
- (b) have made such practice your primary occupation; and
- (c) have been entitled to exercise a *right of audience* before every court in relation to all proceedings,

for a period (which need not be continuous and need not have been as a person authorised by the same *Approved Regulator*) of at least that number of years.

Supply of legal services or the exercise of a right of audience – qualified person

17.2 Where:

- (a) You are a *barrister* exercising a *right of audience* in England and Wales, a person shall be a qualified person for the purpose of paragraph 16.1 if he:
 - (i) has been entitled to practise and has practised as a *barrister* (other than as a *pupil* who has not completed pupillage in accordance with the *Bar Training Regulations*) or as a person authorised by another *Approved Regulator* for a period (which need not have been as a person authorised by the same *Approved Regulator*) for at least six years in the previous eight years; and
 - (ii) for the previous two years:
 - (1) has made such practise his primary occupation; and

- (2) has been entitled to exercise a *right of audience* before every *court* in relation to all proceedings; and
 - (iii) is not acting as a qualified person in relation to more than two people; and
 - (iv) has not been designated by the *Bar Standards Board* as unsuitable to be a qualified person.
- (b) You are a *barrister* exercising a *right of audience* in a *Member State* other than the United Kingdom pursuant to the *Establishment Directive*, or in Scotland or Northern Ireland pursuant to the European Communities (Lawyer's Practice) Regulations 2000, a person shall be a qualified person for the purposes of paragraph 16 if he:
- (i) Has been designated by the *Bar Standards Board* as possessing qualifications and experience in that state or country which are equivalent to the qualifications and experience required by paragraph 16(1) and (2) above; and
 - (ii) Is not acting as a qualified person in relation to more than two other people; and
 - (iii) Has not been designated by the *Bar Standards Board* as unsuitable to be a qualified person.

Exercise of a right to conduct litigation – qualified person

17.3 Where:

- (a) You are a *barrister* exercising a right to *conduct litigation* in England and Wales, a person shall be a qualified person for the purpose of paragraph 16.2 if he:
 - (i) has been entitled to practise and has practised as a *barrister* (other than as a *pupil* who has not completed pupillage in accordance with the *Bar Training Regulations*) or as a person authorised by another *Approved Regulator* for a period (which need not have been as a person authorised by the same

Approved Regulator) for at least six years in the previous eight years; and

(ii) has made such practice his primary occupation for the previous two years: and

(1) is authorised to *conduct litigation*; and

(2) is not acting as a qualified person in relation to more than two people; and

(iii) has not been designated by the *Bar Standards Board* as unsuitable to be a qualified person; or

(b) you are a *barrister* exercising a right to *conduct litigation* in a *Member State* other than the United Kingdom pursuant to the *Establishment Directive*, or in Scotland or Northern Ireland pursuant to the European Communities (Lawyer's Practice) Regulations 2000, a person shall be a qualified person for the purposes of paragraph 16 if he:

(i) has been designated by the *Bar Standards Board* as possessing qualifications and experience in that state or country which are equivalent to the qualifications and experience required by paragraph 16(1) and (2) above; and

(ii) [is authorised within the state or country within which they practise to *conduct litigation* (where relevant) and]

(iii) is not acting as a qualified person in relation to more than two other people; and

(iv) has not been designated by the *Bar Standards Board* as unsuitable to be a qualified person.

Guidance

1. If you are a practising *barrister* of less than three years' standing and you are authorised to *conduct litigation*, you will need to work with a qualified person who is authorised to do litigation as well as with someone who meets the criteria for being a qualified person for the purpose of providing services to *the public* and exercising *rights of audience*. This may be, but is not necessarily, the same person

B3. Scope of Practice as a Self-Employed Barrister

18. Rules 19 to 21 below apply to you where you are acting in your capacity as a self-employed *barrister*, whether or not you are acting for a fee.
19. You may only supply *legal services* if you are appointed or instructed by the *court* or instructed:
 - 19.1 by a professional *client* (who may be an *employee* of the *client*), provided that, if you are instructed by a *foreign lawyer* to provide advocacy services in relation to court proceedings in England and Wales and you are not authorised to *conduct litigation* yourself or you are otherwise not instructed to conduct the litigation in the particular matter:
 - (a) you advise the *foreign lawyer* to take appropriate steps to instruct a *solicitor* or other authorised litigator to conduct the litigation and, if requested, take reasonable steps to assist the *foreign lawyer* to do so;
 - (b) you cease to act and return your *instructions* if it appears to you that the *foreign lawyer* is not taking reasonable steps to instruct a *solicitor* or other authorised litigator to conduct the litigation; and
 - (c) you do not appear in *court* unless a *solicitor* or other authorised litigator has been instructed to conduct the litigation; or
 - 19.2 by a *licensed access client*, in which case you must comply with the *licensed access rules*; or
 - 19.3 by or on behalf of any other *client*, provided that:
 - (a) the matter is *public access instructions* and:

- (i) you are entitled to provide public access work and the *instructions* are relevant to such entitlement; and
 - (ii) you have notified the *Bar Standards Board* that you hold yourself out as willing to accept *instructions* from lay *clients*; and
 - (iii) you comply with the *public access rules*; or
- (b) the matter relates to the *conduct of litigation* and
- (i) you have a litigation extension to your *practising certificate*; and
 - (ii) you have notified the *Bar Standards Board* that you hold yourself out as willing to accept *instructions* from lay *clients*.

Guidance

1. References to *client* in paragraph 19.3 include foreign *clients*.

20. You must not in the course of your practice (except in relation to foreign work performed by you at or from an office outside England and Wales which you have established or joined primarily for the purposes of carrying out that particular foreign work or foreign work in general):

20.1 undertake the management administration or general conduct of a *client's* affairs;
or

20.2 carry on any *reserved legal activities* which you are not permitted to provide pursuant to the terms of your authorisation.

21. You may conduct correspondence but you must not correspond directly with any party other than your *client* if you are aware that that party has a *solicitor* or *barrister* representing him.

Guidance

1. If you are not authorised to *conduct litigation* but you are intending to conduct correspondence with other parties (in the form of letters, faxes, emails or the like) you

should only do so if:

- 1.1 you are satisfied that it is in the *client's* best interests that you do so;
- 1.2 you have adequate systems, experience and resources for managing appropriately such correspondence; and
- 1.3 you have adequate insurance in place in accordance with rule 44 of Section D of Part II which covers, amongst other things, any loss suffered by the *client* as a result of the conduct of the correspondence.

B4. Scope of Practice as a BSB authorised body

22. Rules 23 to 25 below apply to you where you are acting in your capacity as a *BSB authorised body*.
23. You may only supply *legal services* if you are appointed or instructed by the *court* or instructed:
 - 23.1 by a professional *client* (who may be an *employee* of the *client*), provided that, if you are instructed by a *foreign lawyer* to provide advocacy services in relation to *court* proceedings in England and Wales and you are not authorised to *conduct litigation* yourself or you are otherwise not instructed to conduct the litigation in the particular matter:
 - (a) you advise the *foreign lawyer* to take appropriate steps to instruct a *solicitor* or other authorised litigator to conduct the litigation and, if requested, take reasonable steps to assist the *foreign lawyer* to do so;
 - (b) you cease to act and return your *instructions* if it appears to you that the *foreign lawyer* is not taking reasonable steps to instruct a *solicitor* or other authorised litigator to conduct the litigation; and
 - (c) you do not appear in *court* unless a *solicitor* or other authorised litigator has been instructed to conduct the litigation; or
 - 23.2 by a *licensed access client*, in which case you must comply with the *licensed access rules*; or

23.3 by or on behalf of any other *client*, provided that:

(a) the matter is *public access instructions* and:

(i) the individual in the *BSB authorised body* with overall responsibility in respect of the matter is entitled to provide public access work and the *instructions* are relevant to such entitlement; and

(ii) you have notified the *Bar Standards Board* that you hold yourself out as willing to accept *instructions* from lay *clients*; and

(iii) you comply with the *public access rules*; or

(b) the matter relates to the *conduct of litigation* and you have been authorised or licensed to *conduct litigation* (as appropriate).

Guidance

1. References to *client* in paragraph 23.3 include foreign *clients*.

24. You must not:

24.1 undertake the management administration or general conduct of a lay *client's* affairs; or

24.2 carry on any *reserved legal activities* which you are not permitted to provide pursuant to the terms of your authorisation or licence (as appropriate); or

24.3 carry on any *reserved legal activities* through *managers* or *employees* who are not entitled to carry on those activities.

25. You may conduct correspondence but you must not correspond directly with any party other than your *client* if you are aware that that party has a *solicitor* or *barrister* representing him.

Guidance

1. If you are not authorised to *conduct litigation* but you are intending to conduct

correspondence with other parties (in the form of letters, faxes, emails or the like) you should only do so if:

- 1.1 you are satisfied that it is in the *client's* best interests that you do so;
- 1.2 you have adequate systems, experience and resources for managing appropriately such correspondence; and
- 1.3 you have adequate insurance in place in accordance with rule 44 of Section D of Part II which covers, amongst other things, any loss suffered by the *client* as a result of the conduct of the correspondence.

B5. Scope of Practice as an owner or manager of a BSB authorised body or as an employed barrister (BSB authorised body)

26. Rules 27 to 29 below apply to you where you are acting in your capacity as an *owner* or a *manager* of a *BSB authorised body* or as an *employed barrister (BSB authorised body)*.
27. You may only supply *legal services* to the following persons:
 - 27.1 the *BSB authorised body*; or
 - 27.2 any *employee, director* or company secretary of the *BSB authorised body* in a matter arising out of or relating to that person's employment;
 - 27.3 any *client* of the *BSB authorised body*;
 - 27.4 if you supply *legal services* at a *Legal Advice Centre*, *clients* of the *Legal Advice Centre*; or
 - 27.5 if you supply *legal services* free of charge, members of the public.
28. You must not:
 - 28.1 undertake the management administration or general conduct of a lay *client's* affairs; or
 - 28.2 carry on any *reserved legal activities* which you are not entitled to provide; or

- 28.3 cause or permit the *BSB authorised body* to carry on any *reserved legal activities* it is not entitled to carry on or to do so through *managers* or *employees* who are not so entitled.
29. You may conduct correspondence but you must not correspond directly with any party other than your *client* if you are aware that that party has a *solicitor* or *barrister* representing him.

Guidance

1. If you are not authorised to *conduct litigation* but you are intending to conduct correspondence with other parties (in the form of letters, faxes, emails or the like) you should only do so if:
- 1.1 you are satisfied that it is in the *client's* best interests that you do so;
 - 1.2 you have adequate systems, experience and resources for managing appropriately such correspondence; and
 - 1.3 you have adequate insurance in place in accordance with rule 44 of Section D of Part II which covers, amongst other things, any loss suffered by the *client* as a result of the conduct of the correspondence.

B6. Scope of Practice as an owner or manager of an authorised (non-BSB) body or as an employed barrister (authorised non-BSB body)

30. Rules 31 to 32 below apply to you where you are acting in your capacity as an *owner* or a *manager* of an *authorised (non-BSB) body* or as an *employed barrister (authorised non-BSB body)*
31. You may only supply *legal services* to the following persons:
- 31.1 the *authorised (non-BSB) body*;
 - 31.2 any *employee, director* or company secretary of the *authorised (non-BSB) body* in a matter arising out of or relating to that person's employment;

- 31.3 any *client* of the *authorised (non-BSB) body*,
 - 31.4 if you provide *legal services* at a *Legal Advice Centre*, *clients* of the *Legal Advice Centre*; or
 - 31.5 if you supply *legal services* free of charge, members of the public.
32. You must comply with the rules of the *Approved Regulator* or *licensing authority* of the *authorised (non-BSB) body*.

B7. Scope of Practice as an employed barrister (non authorised body)

33. Rule 34 below applies to you where you are acting in your capacity as an *employed barrister (non authorised body)*.
34. You may only supply *legal services* to the following persons:
- 34.1 your *employer*,
 - 34.2 any *employee, director* or company secretary of your *employer* in a matter arising out of or relating to that person's employment;
 - 34.3 if your *employer* is a public authority (including the Crown or a Government department or agency or a local authority), another public authority on behalf of which your *employer* has made arrangements under statute or otherwise to supply any *legal services* or to perform any of that other public authority's functions as agent or otherwise;
 - 34.4 if you are employed by or in a Government department or agency, any Minister or Officer of the Crown;
 - 34.5 if you are employed by a *trade association*, any individual member of the association;
 - 34.6 if you are, or are performing the functions of, a *Justices' clerk*, the Justices whom you serve;
 - 34.7 if you are employed by the Legal Services Commission, members of the public;

- 34.8 if you are employed by or at a *Legal Advice Centre*, *clients* of the *Legal Advice Centre*;
- 34.9 if you supply *legal services* free of charge, members of the public; or
- 34.10 if your *employer* is a *foreign lawyer* and the *legal services* consist of foreign work, any *client* of your *employer*.

B8. Scope of practice of a barrister called under Regulation 78

35. If you are called to the *Bar* under Regulation 78 of the *Bar Training Regulations* (temporary membership of the *Bar*), you may not practise as a *barrister* other than to conduct the case or cases specified in the certificate referred to in Regulation 78.

B9. Legal Advice Centres

36. You may supply *legal services* at a *Legal Advice Centre* on a voluntary or part time basis and, if you do so, you will be treated for the purposes of this *Handbook* as if you were employed by the *Legal Advice Centre*.
37. If you supply *legal services* at a *Legal Advice Centre* to *clients* of a *Legal Advice Centre* in accordance with rule 36:
- 37.1 you must not in any circumstances receive either directly or indirectly any fee or reward for the supply of any *legal services* to any *client* of the *Legal Advice Centre* other than a salary paid by the *Legal Advice Centre*;
- 37.2 you must ensure that any fees in respect of *legal services* supplied by you to any *client* of the *Legal Advice Centre* accrue and are paid to the *Legal Advice Centre*;
and
- 37.3 you must not have any financial interest in the *Legal Advice Centre*.

Guidance

1. You may provide *legal services* at a *Legal Advice Centre* on an unpaid basis irrespective of the capacity in which you normally work.
2. If you are a *self-employed barrister*, you do not need to inform the *Bar Standards Board*

that you are also working for a *Legal Advice Centre*.

3. Transitional arrangements under the *LSA* allow *Legal Advice Centres* to provide *reserved legal activities* without being authorised. When this transitional period comes to an end, the rules relating to providing services at *Legal Advice Centres* will be reviewed.

C. PRACTISING CERTIFICATE RULES

C1. Eligibility for Practising Certificates

1. In this Section C, references to "you" and "your" are references to *barristers* and *registered European lawyers* who are intending to apply for authorisation to practise as a *barrister* or a *registered European lawyer* (as the case may be).
2. You are eligible for a *practising certificate* if:
 - 2.1 you are a *barrister* or *registered European lawyer* and you are not currently *suspended* from practice and have not been *disbarred*; and
 - 2.2 you meet the requirements of sub-paragraph 3.1, 3.2, 3.3 or 3.4 below; and
 - 2.3 either:
 - (a) within the last 5 years either (i) you have held a *practising certificate*; or (ii) you have satisfactorily completed (or have been exempted from the requirement to complete) either the non-practising period of 6 months of pupillage or 12 months of pupillage; or
 - (b) if not, you have complied with such training requirements as may be imposed by the *Bar Standards Board*.
3. You are eligible for:
 - 3.1 a *full practising certificate* if either:
 - (a) you have satisfactorily completed 12 months pupillage; or
 - (b) you have been exempted from the requirement to complete 12 months of pupillage; or
 - (c) on 30 July 2000, you were entitled to exercise full *rights of audience* by reason of being a *barrister*; or
 - (d) you were called to the *Bar* before 1 January 2002 and:

- (i) you notified the *Bar Council* that you wished to exercise a *right of audience* before every *court* and in relation to all proceedings; and
- (ii) you have complied with such training requirements as the *Bar Council* or the *Bar Standards Board* may require or you have been informed by the *Bar Council* or the *Bar Standards Board* that you do not need to comply with any such further requirements;

in each case, before 31 March 2012;

- 3.2 a *provisional practising certificate* if you have satisfactorily completed (or have been exempted from the requirement to complete) the non-practising period of 6 months of pupillage and at the time when you apply for a *practising certificate* you are registered as a *Pupil*;
- 3.3 a *limited practising certificate* if you were called to the *Bar* before 1 January 2002 but you are not otherwise eligible for a *full practising certificate* in accordance with paragraph 3.1 above; or
- 3.4 a *registered European lawyer's practising certificate* if you are a *registered European lawyer*.

C2. Applications for Practising Certificates

- 4. You may apply for a *practising certificate* by:
 - 4.1 completing the application form supplied by the *Bar Council* (acting by the *Bar Standards Board*) and submitting it to the *Bar Council* (acting by the *Bar Standards Board*); and
 - 4.2 submitting such information in support of the application as may be prescribed by the *Bar Council* (acting by the *Bar Standards Board*); and
 - 4.3 paying (or undertaking to pay in a manner determined by the *Bar Council*) the appropriate *practising certificate fee* in the amount determined in accordance with paragraph 9 below (subject to any reduction pursuant to paragraph 8 below).
- 5. You may apply for a litigation extension to your *practising certificate* by:

- 5.1 where you are less than three years' standing (as that term is defined in rule 17.1 of Section B to this Part III), confirming that your principal place of *business* (or if you are practising in a dual capacity, each of your principal places of practice) is either:
- (a) a *Chambers* of annex of *Chambers* which is also the principal place of practice of a qualified person (as that term is defined in rule 17.3 of Section B to this Part III) who is readily available to provide guidance to you; or
 - (b) an office of an organisation of which an *employee, partner, manager* or *director* is a qualified person (as that term is defined in rule 17.3 of Section B to this Part III) who is readily available to provide guidance to you.
- 5.2 confirming that you have the relevant administrative systems in place to be able to provide *legal services* direct to *clients* and to administer the *conduct of litigation*; and
- 5.3 where you are applying for the first time, confirming that you have competent procedural knowledge to enable you to *conduct litigation* either by complying with such training requirements as may be imposed by the *Bar Standards Board* from time to time or by otherwise providing the *Bar Standards Board* with such other evidence or information as the *Bar Standards Board* may reasonably require.
6. An application will only have been made under either paragraph 4 or paragraph 5 above once the *Bar Council* (acting by the *Bar Standards Board*) has received, in respect of the relevant application, the application form in full, together with the *application fee*, all the information required in support of the application and confirmation from you in the form of a declaration that the information contained within, or submitted in support of, the application is full and accurate.
7. On receipt of the application, the *Bar Council* (acting by the *Bar Standards Board*) may require, from you or a third party (including, for the avoidance of doubt, any *BSB authorised body*), such additional information, documents or references as it considers appropriate to the consideration of your application.

8. You are personally responsible for the contents of your application and any information submitted to the *Bar Council* (acting by the *Bar Standards Board*) by you or on your behalf and you must not submit (or cause or permit to be submitted on your behalf) information to the *Bar Council* (acting by the *Bar Standards Board*) which you do not believe is full and accurate information.
9. When applying for a *practising certificate* you may apply to the *Bar Council* for a reduction in the *practising certificate fee payable by you* if your gross fee income or salary is less than such amount as the *Bar Council* may decide from time to time. Such an application must be submitted by completing the form supplied for that purpose by the *Bar Standards Board*.

C3. Practising Certificate Fees

10. The *practising certificate fee* shall be the amount or amounts prescribed in the Schedule of Practising Certificate Fees issued by the *Bar Council* from time to time, and any reference in these Rules to the "*appropriate practising certificate fee*" or the "*practising certificate fee payable by you*" shall refer to the practising certificate fee payable by you pursuant to that Schedule, having regard to, amongst other things:
 - 10.1 the different annual *practising certificate fees* which may be prescribed by the *Bar Council* for different categories of *barristers*, e.g. for Queen's Counsel and junior counsel, for *barristers* of different levels of seniority, and/or for *barristers* practising in different capacities (i.e. *self-employed barristers*, *employed barristers*, *managers* or *employees* of authorised bodies or *barristers* practising with dual capacity);
 - 10.2 any additional fee which may be prescribed by the *Bar Council* where your application includes a request for authorisation to *conduct litigation*;
 - 10.3 any reductions in the annual *practising certificate fees* which may be permitted by the *Bar Council* in the case of *practising certificates* which are valid for only part of a *practising certificate year*;
 - 10.4 any discounts from the annual *practising certificate fee* which may be permitted by the *Bar Council* in the event of payment by specified methods;

- 10.5 any reduction in or rebate from the annual *practising certificate fee* which may be permitted by the *Bar Council* on the grounds of low income, change of category or otherwise; and
 - 10.6 any surcharge or surcharges to the annual *practising certificate fee* which may be prescribed by the *Bar Council* in the event of application for renewal of a *practising certificate* being made after the end of the *practising certificate year*.
11. If you have given an undertaking to pay the annual *practising certificate fee*, you must comply with that undertaking in accordance with its terms.

C4. Issue of Practising Certificates

12. The *Bar Council* (acting by the *Bar Standards Board*) shall not issue a *practising certificate* to a *barrister* or *registered European lawyer*:
- 12.1 who is not eligible for a *practising certificate*, or for a *practising certificate* of the relevant type; or
 - 12.2 who has not applied for a *practising certificate*; or
 - 12.3 who has not paid or not otherwise undertaken to pay in a manner determined by the *Bar Council*, the appropriate *practising certificate fee*; or
 - 12.4 who is not insured against claims for professional negligence as provided for in rule 44 of Section D of Part II of this *Handbook*.
13. The *Bar Council* (acting by the *Bar Standards Board*) may refuse to issue a *practising certificate*, or may revoke a *practising certificate* in accordance with section C of Part V of this *Handbook*, if it is satisfied that the information submitted in support of the application for the *practising certificate* is incomplete, inaccurate or incapable of verification, or that the relevant *barrister* or *registered European lawyer*:
- 13.1 does not hold adequate insurance in accordance with rule 44 of Section D of Part II of this *Handbook*;
 - 13.2 has failed and continues to fail to pay the *appropriate practising certificate fee* when due;

- 13.3 has not complied with any of the requirements of the Continuing Professional Development Regulations applicable to him; or
 - 13.4 would be, or is, practising in breach of the provisions of rules 11-21 or 26-34 of Section B of this Part III of the *Handbook*,
14. When the *Bar Council* (acting by the *Bar Standards Board*) issues a *practising certificate*, it shall:
 - 14.1 inform the relevant *barrister* or *registered European lawyer* of that fact; and
 - 14.2 publish that fact, together with the name and *practising address* of the *barrister* and *registered European lawyer* and the other details specified in paragraph 15 below in the register on the *Bar Standards Board's* website.
 15. A *practising certificate* shall state:
 - 15.1 the name of the *barrister* or *registered European lawyer* (as the case may be);
 - 15.2 the period for which the *practising certificate* is valid;
 - 15.3 the *reserved legal activities* which the *barrister* or *registered European lawyer* (as the case may be) to whom it is issued is thereby authorised to carry on;
 - 15.4 the capacity (or capacities) in which the *barrister* or *registered European lawyer* (as the case may be) practises; and
 - 15.5 whether the *barrister* or *registered European lawyer* (as the case may be) is registered with the [*Bar Council/Bar Standards Board*] as a *Public Access* practitioner.
 16. A *practising certificate* may be valid for a *practising certificate year* or part thereof and for one month after the end of the *practising certificate year*.
 17. A *full practising certificate* shall authorise a *barrister* to exercise a *right of audience* before every *court* in relation to all proceedings.
 18. A *provisional practising certificate* shall authorise a second six *pupil* to exercise a *right of audience* before every *court* in relation to all proceedings.

19. A *limited practising certificate* shall not authorise a *barrister* to exercise a *right of audience*, save that it shall authorise a *barrister* to exercise any *right of audience* which he had by reason of being a *barrister* and was entitled to exercise on 30 July 2000.
20. A *practising certificate* shall authorise a *barrister* to *conduct litigation* in relation to every *court* and all proceedings if the *practising certificate* specifies a litigation extension.
21. Every *practising certificate* issued to a *barrister* shall authorise the *barrister*:
- 21.1 to carry on:
- (a) *reserved instrument activities*;
 - (b) *probate activities*;
 - (c) *the administration of oaths*; and
- 21.2 to undertake *immigration work*.
22. A *registered European lawyer's practising certificate* shall authorise a *registered European lawyer* to carry on the same *reserved legal activities* as a *full practising certificate* issued to a *barrister*, save that:
- 22.1 a *registered European lawyer* is only authorised to exercise a *right of audience* or a *right to conduct litigation* if he acts [in conjunction with] a person authorised to practise before the *court*, tribunal or public authority concerned and who could lawfully exercise that right; and
- 22.2 a *registered European lawyer* is not authorised to prepare for remuneration any instrument creating or transferring an interest in land unless he has a *home professional title* obtained in Denmark, the Republic of Ireland, Finland, Sweden, Iceland, Liechtenstein, Norway, the Czech Republic, Cyprus, Hungary or Slovakia.

C5. Amendment and Revocation of Practising Certificates

23. You must inform the *Bar Council* (acting by the *Bar Standards Board*) as soon as reasonably practicable, and in any event within 28 days, if any of the information submitted in support of your *practising certificate* application form:

- 23.1 was incomplete or inaccurate when the application form was submitted; or
- 23.2 changes before the expiry of your *practising certificate*.
24. If you wish to:
- 24.1 change the capacity in which you practise (e.g. if you change from being an *employed barrister* or a *manager* or *employee* of a *BSB authorised body* or an *authorised (non-BSB) body* to a *self-employed barrister*, or vice versa, or if you commence or cease practice in a dual capacity); or
- 24.2 become authorised to *conduct litigation* or cease to be authorised to *conduct litigation*,
- before the expiry of your *practising certificate*, you must:
- 24.3 notify the *Bar Council* (acting by the *Bar Standards Board*) of such requested amendment to your *practising certificate*; and
- 24.4 submit to the *Bar Council* (acting by the *Bar Standards Board*) such further information as the *Bar Council* (acting by the *Bar Standards Board*) may reasonably require in order for them to be able to determine whether or not to grant such proposed amendment to your *practising certificate*; and
- 24.5 within 14 days of demand by the *Bar Council* pay to the *Bar Council* the amount (if any) by which the *annual practising certificate fee* which would apply to you in respect of your amended *practising certificate* exceeds the *annual practising certificate fee* which you have already paid (or undertaken to pay) to the *Bar Council*. In the event that the revised *annual practising certificate fee* is less than the amount originally paid to the *Bar Council* (acting by the *Bar Standards Board*), the *Bar Council* (acting by the *Bar Standards Board*) is not under any obligation to refund any part of the *annual practising certificate fee* already paid although it may in its absolute discretion elect to do so in the circumstances contemplated by the Schedule of Practising Certificate Fees issued by the *Bar Council* from time to time.
25. The *Bar Council* (acting by the *Bar Standards Board*) may amend a *practising certificate* if it is satisfied that any of the information contained in the relevant application form was

inaccurate or incomplete or has changed, but may not amend a *practising certificate* (except in response to a request from the *barrister*) without first:

- 25.1 giving written notice to the *barrister or registered European lawyer* of the grounds on which the *practising certificate* may be amended; and
 - 25.2 giving the *barrister or registered European lawyer* a reasonable opportunity to make representations.
26. The *Bar Council* (acting by the *Bar Standards Board*) shall endorse a *practising certificate* to reflect any qualification restriction or condition imposed on the *barrister or registered European lawyer* by the *Bar Council* (acting by the *Bar Standards Board*) or by a *Disciplinary Tribunal, Interim Suspension or Disqualification Panel* or *Fitness to Practise Panel*.
27. The *Bar Council* (acting by the *Bar Standards Board*):
- 27.1 shall revoke a *practising certificate*:
 - (a) if the *barrister or registered European lawyer* is *disbarred or suspended* from practice as a *barrister or registered European lawyer* whether on an interim basis under section E of Part V or otherwise under section C of Part V;
 - (b) if the *barrister* has notified the *Bar Council* or the *Bar Standards Board* that he no longer wishes to have a *practising certificate*; and
 - 27.2 may revoke a *practising certificate*:
 - (a) in the circumstances set out in paragraph 13 above; or
 - (b) if the *barrister or registered European lawyer* has given an undertaking to pay the appropriate *practising certificate fee* and fails to comply with that undertaking in accordance with its terms,

but in either case only after:

- (i) giving written notice to the relevant *barrister or registered European lawyer* of the grounds on which the *practising certificate* may be revoked; and
- (ii) giving the relevant *barrister or registered European lawyer* a reasonable opportunity to make representations.

C6. Applications for Review

28. If you contend that the *Bar Council* (acting by the *Bar Standards Board*) has:

28.1 wrongly failed or refused to issue or amend a *practising certificate*; or

28.2 wrongly amended or revoked a *practising certificate*, pursuant to these Rules,

then you may lodge an application for review with the *Qualifications Committee* using the form supplied for that purpose by the *Bar Standards Board*. For the avoidance of doubt, this paragraph does not apply to any amendment or revocation of a *practising certificate* made by order of Medical or Review Panel, a *Disciplinary Tribunal* or the *Visitors to the Inns of Court*.

29. The *Bar Council* (acting by the *Bar Standards Board*) may issue a temporary *practising certificate* to a *barrister* [or *registered European lawyer*] who has lodged an application for review.

30. If the *Qualifications Committee* finds that the *Bar Council* (acting by the *Bar Standards Board*) has wrongly failed or refused to issue a *practising certificate*, then the *Bar Council* (acting by the *Bar Standards Board*) shall issue such *practising certificate* as ought to have been issued.

31. If the *Qualifications Committee* finds that the *Bar Council* (acting by the *Bar Standards Board*) has wrongly failed or refused to amend a *practising certificate*, then the *Bar Council* (acting by the *Bar Standards Board*) shall make such amendment to the *practising certificate* as ought to have been made.

32. If the *Qualifications Committee* finds that the *Bar Council* (acting by the *Bar Standards Board*) has wrongly amended a *practising certificate*, then the *Bar Council* (acting by the *Bar Standards Board*) shall cancel the amendment.

33. If the *Qualifications Committee* finds that the *Bar Council* (acting by the *Bar Standards Board*) has wrongly revoked a *practising certificate*, then the *Bar Council* (acting by the *Bar Standards Board*) shall re-issue the *practising certificate*.

D. THE REGISTRATION OF EUROPEAN LAWYERS RULES

1. If you are a *European lawyer* and wish to practise on a permanent basis in England and Wales under a *home professional title*, you may apply to the *Bar Standards Board* to be registered as a *registered European lawyer*.
2. An application for registration must be made in such form as may be prescribed by the *Bar Standards Board* and be accompanied by:
 - 2.1 a certificate, not more than three months old at the date of receipt of the application by the *Bar Standards Board*, that you are registered with the competent authority in a *Member State* as a lawyer qualified to practise in that *Member State* under a *Member State* professional title;
 - 2.2 a declaration that:
 - (a) you have not on the ground of misconduct or the commission of a criminal offence been prohibited from practising in your *Member State* and are not currently *suspended* from so practising;
 - (b) no *bankruptcy order* or *directors disqualification order* has been made against you and you have not entered into an individual voluntary arrangement with your creditors;
 - (c) you are not aware of any other circumstances relevant to your fitness to practise under your *home professional title* in England and Wales; and
 - (d) you are not registered with the Law Society of England and Wales, of Scotland or of Northern Ireland; and
 - 2.3 the prescribed fee.
3. Provided it is satisfied that the application complies with the requirements of paragraph 2 of this Section D, the *Bar Standards Board* will:
 - 3.1 register you as a *registered European lawyer*, and
 - 3.2 so inform you and the competent authority in your *Member State* which has issued the certificate referred to in paragraph 2.1 above.

4. The *Bar Standards Board* will:

4.1 remove a *registered European lawyer* from the register:

- (a) pursuant to a sentence of a *Disciplinary Tribunal*; or
- (b) if the *registered European lawyer* ceases to be a *European lawyer*;

4.2 suspend a *registered European lawyer* from the register:

- (a) pursuant to a sentence of either a *Disciplinary Tribunal* or a *Summary Procedure Panel*; or
- (b) if the *registered European lawyer's* authorisation in his *home State* to pursue professional activities under his *home professional title* is *suspended*; and

in each case, notify the *European lawyer's home professional body*:

- (c) of his removal or suspension from the register; and
- (d) of any criminal conviction or *bankruptcy order* of which it becomes aware against a *registered European lawyer*.

E. ENTITY APPLICATION AND AUTHORISATION

E1. Eligibility for Authorisation to Practise as a BSB authorised body

1. In this Section E, references to "you" and "your" are references to the partnership, *LLP* or *company* which is applying for, or has applied for (in accordance with this Section E of Part III), authorisation or (if a *licensable body*) a licence to practise as a *BSB authorised body* and references in these Rules to "authorisation to practise" mean the grant by the *Bar Council* as *Approved Regulator* or *licensing authority* of an authorisation or a licence (as the case may be) under this section E of Part III (distinguishing between the two only where the context so requires).
2. To be eligible for authorisation to practise as a *BSB authorised body*, you:
 - 2.1 must confirm that you will have in place, at all times, individuals appointed to act as a *HOLP* (who must also be a *manager*) and a *HOFA* of the *BSB authorised body*;
 - 2.2 must confirm that you have or will have appropriate insurance arrangements in place in accordance with rule 44 of Section D of Part II of this *Handbook* and you must be able to provide evidence of those insurance arrangements if required to do so by the *Bar Standards Board*;
 - 2.3 must confirm that, in connection with your proposed practice, you will not directly or indirectly hold *client money* in accordance with rule 42 of Section D of Part II of this *Handbook* or have someone else hold *client money* on your behalf other than in those circumstances permitted by rule 43 of Section D of Part II of this *Handbook*;
 - 2.4 must confirm that no individual that has been appointed or will be appointed as a *HOLP*, *HOFA*, *manager* or *employee* of the *BSB authorised body* has been disqualified from acting as such by the *Bar Standards Board* or any *Approved Regulator* pursuant to section 99 of the *LSA* or otherwise as a result of its regulatory arrangements;
 - 2.5 must confirm that you will at all times have a *practising address* in England or Wales;

- 2.6 must confirm that:
- (a) if you are an *LLP*, you are incorporated and registered in England and Wales, Scotland or Northern Ireland under the Limited Liability Partnerships Act 2000;
 - (b) if you are a *Company*, you are:
 - (i) incorporated and registered in England and Wales, Scotland or Northern Ireland under Parts 1 and 2 of the Companies Act 2006; or
 - (ii) incorporated in an *Establishment Directive* state and registered as an overseas company under Part 34 of the Companies Act 2006; or
 - (iii) incorporated and registered in an *Establishment Directive* state as a *societas Europaea*;
- 2.7 without prejudice to paragraph 3 below, you have or will have at all times at least one *practising barrister* who is both a *manager* and an *owner*; and
- 2.8 must confirm that at least one *manager* or *employee* is an *authorised individual* in respect of each *reserved legal activity* which you wish to provide;
- 2.9 must confirm that any *owner* will also be a *manager*; and
- 2.10 must confirm that all persons with any ownership interest (whether material or not) and all *managers* will be individuals; and
- 2.11 must confirm that you will not be providing any services other than *legal activities*, subject to any minor or incidental examples of other activities which are carried on in the course of supplying the main service and do not materially detract from the focus being *legal activities*; and
- 2.12 must confirm that you will pay annual fees as and when they become due.
3. In addition to the requirements set out at paragraph 2 above:
- 3.1 to be eligible for authorisation to practise as a *barrister only entity*.

- (a) all of the *managers* of the partnership, *LLP* or *company* (as the case may be) must be *practising barristers*; and
- (b) all those with a material ownership interest in the partnership, *LLP* or *company* (as the case may be) must be *practising barristers*;

3.2 to be eligible for authorisation to practise as a *legal disciplinary practice*:

- (a) all of the *managers* of the partnership, *LLP* or *company* (as the case may be) must be *BSB authorised individuals* or *authorised (non-BSB) individuals*; and
- (b) all of the *owners* (whether or not the ownership interest is material) of the partnership, *LLP* or *company* (as the case may be) must be *BSB authorised individuals* or *authorised (non-BSB) individuals*;

3.3 to be eligible to be licensed to practise as a *BSB licensed body*:

- (a) the body must be a *licensable body*, as defined by section 72 of the *LSA* but must also meet the eligibility requirements set out at paragraph 2 of this Section E to Part III; and
- (b) all of the non-authorised *owners* in the partnership, *LLP* or *company* (as the case may be) must be approved by the *Bar Standards Board* as being able to hold such interest taking into account the relevant *suitability criteria*.

4. In the event that you meet the eligibility criteria set out in paragraph 2 above, you may submit an application in accordance with paragraphs 6 and 7 below and the *Bar Standards Board* will review that application in accordance with paragraphs 9 to 11 below to determine whether or not to authorise you or to grant you a licence (as appropriate) to practise as a *BSB authorised body*. In the event that the *Bar Standards Board* determines that you should be authorised or licensed (as appropriate) to practise as a *BSB authorised body* then it may either:

4.1 authorise you to practise as a *barrister only entity* or a *legal disciplinary practice* in the event that you also meet the eligibility criteria set out in paragraph 3.1 or

3.2 respectively and you have applied to be authorised as such in your relevant application form; or

4.2 license you to practise as a *BSB licensed body*, in the event that you do meet the eligibility criteria set out in paragraph 3.3 above and you have applied to be authorised as such in your relevant application form.

5. Such authorisation or licence (as appropriate) will entitle you to:

5.1 to exercise a *right of audience* before every *court* in relation to all proceedings;

5.2 to carry on:

(a) *reserved instrument activities*;

(b) *probate activities*;

(c) *the administration of oaths*;

5.3 to undertake *immigration work*; and

5.4 if you have been granted a litigation extension, to *conduct litigation*.

Guidance

1. Insurance taken out with the *BMIF* shall be appropriate insurance for these purposes.
2. Single person entities are permitted under these arrangements. Therefore, a *barrister only entity* may (subject to any structural requirements imposed by general law for the particular type of entity) comprise just one *barrister* who is both the *owner* and *manager* of that entity.
3. These are mandatory eligibility requirements. The *Bar Standards Board* has a discretion also to take other factors into account in deciding whether an *applicant* is one which it would be appropriate for it to regulate (see paragraph 19] below).

E2. Applications for Authorisation

Application to be authorised or licensed as a BSB authorised body

6. To apply for authorisation to practise as a *BSB authorised body*, you must:
 - 6.1 complete the application form supplied by the *Bar Standards Board* and submit it to the *Bar Standards Board*; and
 - 6.2 submit such other information, documents and references in support of the application as may be required by the application form or by the *Bar Standards Board* from time to time; and
 - 6.3 pay the *application fee* in the amount determined in accordance with paragraph 14 below.

Application for a litigation extension

7. If you would like to apply for a litigation extension, you must make this clear on your application form (where you are applying for the litigation extension at the same time as seeking an authorisation or licence to act as a *BSB authorised body*) or submit the relevant application form in circumstances where the application is being made subsequent to your initial application and you must provide such other information to the *Bar Standards Board* as it may require in order to satisfy itself that:
 - 7.1 you have the relevant administrative systems in place to be able to provide *legal services* direct to *clients* and to administer the *conduct of litigation*;
 - 7.2 you have a sufficient number of persons who are authorised to *conduct litigation* to provide guidance to any owners, *managers* or *employees* that may be involved in assisting in the *conduct of litigation* that are not themselves authorised and that you have an adequate number of qualified persons to provide guidance to any persons authorised to *conduct litigation* who are of less than three years' standing.

Guidance

1. Years' standing and qualified person shall be defined in accordance with rule 17.1 and 17.3 of Section B of this Part III.

Approval applications for any new HOLPs, HOFAs, owners and/or managers

8. If, following authorisation or the grant of a licence (as appropriate), a *BSB authorised body* wishes to appoint a new *HOLP, HOFA, owner or manager*, the *BSB authorised body* must:
 - 8.1 notify the *Bar Standards Board* of such proposed appointment prior to such appointment being made; and
 - 8.2 make an application to the *Bar Standards Board* for approval of the new *HOLP, HOFA, owner or manager* (as appropriate); and
 - 8.3 pay any fee set by the *Bar Standards Board*.

Application Process

9. An application for authorisation and/or a litigation extension will only have been made once the *Bar Standards Board* has received the application form in full, together with the appropriate fee, all the information required in support of the application and confirmation from you in the form of a declaration that the information contained within, or submitted in support of, the application is full and accurate.
10. On receipt of the application, the *Bar Standards Board* may require, from you or a third party, such additional information, documents or references as it considers appropriate to the consideration of your application.
11. You are responsible for the contents of your application and any information submitted to the *Bar Standards Board* by you or on your behalf and you must not submit (or cause or permit to be submitted on your behalf) information to the *Bar Standards Board* which you do not believe is full and accurate information.
12. The *application fee* shall be the amount or amounts prescribed by the *Bar Standards Board* from time to time relevant to the type of *BSB authorised body* to which the application relates. A separate *application fee* will also be payable if you are applying for a litigation extension.

Guidance

1. Application forms and guidance notes for completion can be found on the *Bar Standards Board's* website.
2. Once you have submitted an application, you must disclose to the *Bar Standards Board* any information which you subsequently become aware of and which you would have been required to supply if it had been known by you at the time of the original application.
3. Details of the relevant *application fee* can be found on the *Bar Standards Board's* website.

E3. Decision Process

13. Subject to paragraphs 19 and 20 below, the *Bar Standards Board* shall make a decision in respect of each valid and complete application within the *decision period*.
14. In the event that the *Bar Standards Board* is not able to reach a decision within the *decision period*, it shall notify you of such delay and shall confirm to you the latest date by which you will have received a response to your application from the *Bar Standards Board*.
15. The *Bar Standards Board* may issue more than one notice to extend the *decision period* except that:
 - 15.1 any notice to extend must always be issued prior to the expiry of the *decision period* on the first occasion and prior to the expiry of any such extended *decision period* on the second and subsequent occasions; and
 - 15.2 no notice to extend can result in the total *decision period* exceeding more than 9 months.
16. During its consideration of your application form, the *Bar Standards Board* may identify further information or documentation which it needs in order to be able to reach its decision. If this is the case, you must provide such additional information or documentation as soon as possible after receipt of the relevant request from the *Bar Standards Board*. Any delay in providing this information shall further entitle the *Bar*

Standards Board to issue an extension notice in accordance with paragraph 19 or 20 (as the case may be) or to treat the application as having been withdrawn.

E4. Issues to be Considered by the Bar Standards Board

Applications for authorisation or the grant of a licence

17. In circumstances where the mandatory conditions set out at paragraphs 2 and 3 above are met, the *Bar Standards Board* shall exercise its discretion as to whether to grant authorisation. In exercising this discretion, the *Bar Standards Board* shall consider whether the entity is one which it would be appropriate for the *Bar Standards Board* to regulate taking into account its analysis of the risks posed by you, the *regulatory objectives* of the *LSA* and the policy objectives of the *Bar Standards Board* as published from time to time.
18. In circumstances where the mandatory conditions set out at paragraphs 2 and 3 above are not met, the *Bar Standards Board* shall refuse to grant the authorisation or licence (as appropriate),

Guidance

1. The *Bar Standards Board* is a specialist regulator focussing primarily on the regulation of advocacy and litigation services. The *Bar Standards Board* wishes to ensure that it is an appropriate regulator of your proposed practice, and so, as part of its review of your application, it will undertake a risk assessment to consider the nature of the risks posed by you and will consider the appropriateness or otherwise of the *Bar Standards Board* regulating you taking into account the nature of the services which you are intending to provide and the *Bar Standards Board's* policy objectives. Factors that the *Bar Standards Board* shall take into account when undertaking this risk assessment include:
 - 1.1 the services which you intend to provide and the nature and extent of any *non-reserved activities*;
 - 1.2 the proposed proportion of *managers* to *employees*;
 - 1.3 the extent to which your *managers* have been and/or are going to be actively involved in advocacy and/or litigation services or related advice;

- 1.4 whether you are intending to undertake *legal transactional services* direct to lay *clients* and, if so, whether this is likely to constitute a substantial or significant proportion of your practice; and
 - 1.5 the business systems which you have or are intending to put in place to manage such services.
2. The following factors, when present, would indicate that it may be appropriate for the *Bar Standards Board* to regulate you:
- 2.1 if 50% or more of your *owners* and 50% or more of your *managers* are entitled to exercise *rights of audience* in the Higher Courts;
 - 2.2 if a substantial part of the services to be provided comprise the provision of advocacy and/or litigation services or related advice;
 - 2.3 if 75% or more of your *owners* and 75% or more of your *managers* are *authorised individuals*; and
 - 2.4 if each *manager* supervises only a small number of *employees*.
3. The following factors, when present, would indicate that it may not be appropriate for the *Bar Standards Board* to regulate you:
- 3.1 if less than 50% of your *owners* and less than 50% of your *managers* are entitled to exercise *rights of audience* in the Higher Courts;
 - 3.2 if a substantial part of the services to be provided comprise undertaking legal transactional matters direct to lay *clients*;
 - 3.3 if the provision of advocacy and/or litigation and related advice does not comprise a significant proportion of your proposed *business*;
 - 3.4 if less than 75% of your *owners* and 75% of your *managers* are *authorised individuals*.
4. If you meet all of the requirements of paragraph 2 above you may still be refused authorisation if the *Bar Standards Board's* analysis of the risks posed by you indicate that it may not be appropriate for the *Bar Standards Board* to regulate you. Similarly, if

you exhibit similar characteristics to those described in paragraph 3 above you may still be granted authorisation by the *Bar Standards Board* if the *Bar Standards Board* is satisfied that the risks posed by your organisation can be managed effectively and further considers that it would be consistent with the *regulatory objectives* of the *LSA* and the policy objectives of the *Bar Standards Board* to grant such authorisation to you.

19. Where the *Bar Standards Board* concludes that you are an entity which is appropriate for it to regulate in accordance with paragraph 17 and the associated guidance, the *Bar Standards Board* may still refuse your application for authorisation if:
 - 19.1 it is not satisfied that your *managers* and *owners* individually meet the relevant *suitability criteria* applicable to *managers* and owners of BSB authorised bodies;
 - 19.2 it is not satisfied that your *managers* and *owners* are suitable as a group to operate or control a practice providing services regulated by the *Bar Standards Board*;
 - 19.3 if it is not satisfied that your proposed *HOLP* and *HOFA* meet the relevant *suitability criteria*;
 - 19.4 it is not satisfied that your management or governance arrangements are adequate to safeguard the *regulatory objectives* of the *LSA* or the policy objectives of the *Bar Standards Board*;
 - 19.5 it is not satisfied that, if the authorisation is granted, you will comply with the *Bar Standards Board's* regulatory arrangements including this *Handbook* and any conditions imposed on the authorisation;
 - 19.6 you have provided inaccurate or misleading information in your application or in response to any requests by the *Bar Standards Board* for information;
 - 19.7 you have failed to notify the *Bar Standards Board* of any changes in the information provided in the application; or
 - 19.8 you have applied for authorisation to become a *barrister only entity* or a *legal disciplinary practice* and the *Bar Standards Board* has concluded that it may require the intervention powers allocated to it in respect of *licensed bodies* under the *LSA* in respect of you;

- 19.9 for any other reason, the *Bar Standards Board* considers that it would be against the *regulatory objectives* of the *LSA* or the policy objectives of the *Bar Standards Board* to grant authorisation to you.

Guidance

1. In circumstances where the *Bar Standards Board* rejects your application on the basis of paragraph 19.8 above, you will have the opportunity to make the necessary adjustments to your composition and to re-apply to become a *BSB licensed body*.

Applications for authorisation to conduct litigation

20. If the *Bar Standards Board* is unable to satisfy itself that the *BSB authorised body* meets the requirements set out in paragraph 7 of this Section E to Part III, it can refuse to grant the litigation extension.
21. In the event that the *Bar Standards Board* refuses such application or decides to place conditions on the *BSB authorised body* as a result of such application, the *BSB authorised body* can submit an appeal in respect of such decision in accordance with the provisions of paragraph 38 of this Section E of this Part III.

Approval applications for any new HOLPs, HOFAs, owners and/or managers

22. The *Bar Standards Board* shall consider any approval applications for any new *HOLPs*, *HOFAs*, *owners* and/or *managers* and shall determine whether the relevant individual meets the *suitability criteria* relevant to such proposed appointment.
23. In the event that the *Bar Standards Board* refuses such application or decides to place conditions on the *BSB authorised body* as a result of such application, either the *BSB authorised body* or the individual concerned can submit an appeal in respect of such decision in accordance with the provisions of paragraphs 38 or 39 of this Section E of this Part III.

E5. Suitability Criteria in respect of HOLPs, HOFAs, owners and managers

24. The *Bar Standards Board* shall conclude that an individual is not a fit and proper person to undertake the role of a *HOLP* if:

- 24.1 that individual is not an *authorised individual*; or
- 24.2 that individual is disqualified from acting as a *HOLP* by the *Bar Standards Board* or an *Approved Regulator* pursuant to section 99 of the *LSA* or otherwise as a result of its regulatory arrangements.
25. The *Bar Standards Board* may conclude that an individual is not a fit and proper person to undertake the role of a *HOLP* if:
- 25.1 any of the circumstances listed in paragraph 30 below apply to the person designated as the *HOLP*; or
- 25.2 the *Bar Standards Board* considers that the person is not able effectively to carry out the duties imposed on a *HOLP* by section 91 of the *LSA*.
26. The *Bar Standards Board* shall conclude that an individual is not a fit and proper person to undertake the role of a *HOFA* if that individual is disqualified from acting as a *HOFA* by the *Bar Standards Board* or an *Approved Regulator* pursuant to section 99 of the *LSA* or otherwise as a result of its regulatory arrangements.
27. The *Bar Standards Board* may conclude that an individual is not a fit and proper person to undertake the role of a *HOFA* if:
- 27.1 any of the circumstances listed in paragraph 30 below apply to the person designated as the *HOFA*; or
- 27.2 the *Bar Standards Board* considers that the person is not able effectively to carry out the duties imposed on a *HOFA* by section 92 of the *LSA*.
28. In circumstances where an *owner* is also a *non-authorised individual*, the *Bar Standards Board* needs to approve that individual as an *owner*. The *Bar Standards Board* shall approve a *non-authorised individual* to be an *owner* of *BSB licensed body* if:
- 28.1 the *non-authorised individual* is also a *manager* and approved as such; and
- 28.2 the *non-authorised individual's* holding of that interest does not compromise the *regulatory objectives*; and
- 28.3 the *non-authorised individual's* holding of that interest does not compromise compliance with the duties imposed by section 176 of the *LSA* by the *licensed*

body or any authorised individuals that are to be *employees* or *managers* of that *licensed body*;

28.4 the *non-authorised individual* is otherwise a fit and proper person to hold that interest taking into account:

- (a) that person's probity and financial position;
- (b) whether the person is disqualified pursuant to section 100(1) of LSA or included in the list maintained by the *Legal Services Board* pursuant to paragraph 51 of Schedule 13 of the LSA; and
- (c) that person's associates; and
- (d) the *suitability criteria* relevant to *managers* and *employees* as set out at paragraph 30 below.

29. In circumstances where a *manager* is a *non-authorised individual*, the *Bar Standards Board* needs to approve that individual as a *manager*. The *Bar Standards Board* shall approve a *non-authorised individual* to be a *manager* of a *BSB licensed body* if the *non-authorised individual* is a fit and proper person to hold that interest taking into account:

- (a) that person's probity;
- (b) whether the person is disqualified pursuant to section 100(1) of the *LSA* or included in the list maintained by the *Legal Services Board* pursuant to paragraph 51 of Schedule 13 of the *LSA*; and
- (c) the *suitability criteria* relevant to *managers* and *employees* as set out at paragraph 30 below

30. The *Bar Standards Board* may reject an application if it is not satisfied that:

30.1 an individual identified in an application for authorisation or the grant of a licence as a proposed *owner*, *manager*, *HOLP* or *HOFA* of the relevant *applicant*; or

30.2 any individual identified as a replacement *owner*, *manager*, *HOLP* or *HOFA*,

is a fit and proper person to act as an *owner, manager, HOLP* or *HOFA* of a *BSB authorised body*. Reasons why the *Bar Standards Board* may conclude that an individual is not a fit and proper person include where the individual concerned:

- 30.3 has been committed to prison in civil or criminal proceedings;
- 30.4 has been disqualified from being a *director*;
- 30.5 has been removed from the office of charity trustee or trustee for a charity by an order within the terms of section 72(1)(d) of the Charities Act 1993;
- 30.6 is an undischarged bankrupt;
- 30.7 has been adjudged bankrupt and discharged;
- 30.8 has entered into an individual voluntary arrangement or a partnership voluntary arrangement under the Insolvency Act 1986;
- 30.9 has been a *manager* of an *authorised body* or a *BSB authorised body* which has entered into a voluntary arrangement under the Insolvency Act 1986;
- 30.10 has been a *director* of a *company* or a member of an *LLP* which has been the subject of a winding up order, an administration order or administrative receivership; or has entered into a voluntary arrangement under the Insolvency Act 1986; or has been otherwise wound up or put into administration in circumstances of insolvency;
- 30.11 lacks capacity (within the meaning of the Mental Capacity Act 2005) and powers under sections 15 to 20 or section 48 of that Act are exercisable in relation to that individual;
- 30.12 is the subject of outstanding judgments involving the payment of money;
- 30.13 is currently charged with an *indictable offence*, or has been convicted of an *indictable offence*, any dishonesty offence or any offence under the Financial Services and Markets Act 2000, the Immigration and Asylum Act 1999 or the Compensation Act 2006;

- 30.14 has been disqualified from being appointed to act as a *HOLP* or a *HOFA* or from being a *manager* or employed by a *licensed body* (as appropriate) by the *Bar Standards Board* or another *Approved Regulator* pursuant to its or their powers under section 99 of the *LSA* or otherwise as a result of its regulatory arrangements; or
- 30.15 has been the subject of an equivalent circumstances in another jurisdiction to those listed in paragraphs 30.3 to 30.14 above; or
- 30.16 has significant professional conduct actions against them; or
- 30.17 has been involved in other conduct which calls into question his or her honesty, integrity or respect for the law.

E6. Notification of the Authorisation Decision

31. The *Bar Standards Board* will notify you of its decision in writing within the *decision period* or by such later date as may have been notified to the *applicant* in accordance with paragraph 14 or 15 above. In the event that the *Bar Standards Board* decides to refuse to grant the application, the reasons for such refusal shall be set out.

E7. Conditions of Authorisation

32. Authorisation granted by the *Bar Standards Board* to a *barrister only entity* or a *legal disciplinary practice* or the terms of any licence granted by the *Bar Standards Board* to a *BSB licensed body* in accordance with this Section E of Part III must specify:
- 32.1 the activities which are *reserved legal activities* and which the *BSB authorised body* is authorised to carry on by virtue of the authorisation or the licence (as the case may be); and
- 32.2 any conditions subject to which the authorisation or the licence (as the case may be) is granted.
33. Authorisations and licences shall, in all cases, be granted subject to the condition that:
- 33.1 any obligation which may from time to time be imposed on you (or your *managers, employees, or owners*) by the *Bar Standards Board* is complied with; and

- 33.2 any other obligation imposed on you (or your *managers, employees* or *owners*) by or under the *LSA* or any other enactment is complied with.
34. In addition to the provisions set out at paragraph 33 above, authorisation or a licence may be granted subject to such other conditions as the *Bar Standards Board* considers appropriate including as to:
- 34.1 the *non-reserved activities* which you may or may not carry on; and/or
- 34.2 in the case of licensed bodies:
- (a) the nature of any interest held by a non-authorised *owner* provided always that the *Bar Standards Board* complies with its obligations under paragraph 17 of Schedule 13 to the *LSA*; and/or
 - (b) any limitations on the shareholdings or voting controls capable of being held by non-authorised *owners* in accordance with paragraph 33 of Schedule 13 to the *LSA*.

E8. Duration of the Authorisation/Licence granted

35. Except where indicated otherwise in the authorisation or licence, any authorisation or licence granted in accordance with these *Scope of Practice, Authorisation and Licensing Rules* shall be for unlimited duration except that the authorisation or licence:
- 35.1 shall cease to have effect on the occurrence of any of the following:
- (a) if you have your authorisation/licence withdrawn in accordance with paragraph 37 below; or
 - (b) if you obtain authorisation/licence from an *Approved Regulator* or *licensing authority*.
- 35.2 may cease to have effect on the occurrence of any of the following:
- (a) if you fail to provide the relevant monitoring information or fail to pay the relevant authorisation/licensing renewal fee in circumstances where the *Bar Standards Board* has notified you (i) that such information or payment is required within a particular timescale; and (ii) that failure to provide

such information or payment within the relevant timescale may result in your authorisation or licence being withdrawn in accordance with this paragraph 35; or

- (b) if you fail to replace your *HOLP/HOFA* in accordance with the requirements of this *Handbook*.

E9. Modification of an authorisation/licence

36. The *Bar Standards Board* may modify the terms of an authorisation or licence granted by it:

36.1 if you apply to the *Bar Standards Board* for the terms of such authorisation or licence (as the case may be) to be modified; or

36.2 if such modification is required in accordance with the provisions of this *Handbook*; or

36.3 in the event of a sanction imposed by a disciplinary tribunal; or

36.4 where the *Bar Standards Board* reasonably considers that such modification is appropriate and in accordance with the *regulatory objectives* under the *LSA* or the policy objectives of the *Bar Standards Board*,

in each case, by giving notice to you in writing of the modifications which are to be made to the authorisation or licence (as the case may be) and providing an opportunity for you to make representations prior to a decision. Following the decision by the *Bar Standards Board*, you may apply for a review in accordance with 38.3 below. Such modifications take effect 28 days from the date the decision is notified to you unless an application for a review is lodged within that period and shall be made published in such a way as determined by the *Bar Standards Board* from time to time.

E10. Revocation or suspension of an authorisation/licence

37. The *Bar Standards Board* may:

37.1 revoke an authorisation or licence granted by it:

- (a) in the event of a sanction imposed by a disciplinary tribunal; or

- (b) in the event that you no longer comply with the requirements in rule 2 of section E1 of Part III or your circumstances have changed in relation to the issues considered by the *Bar Standards Board* in section E4 of Part III; or
- (c) revocation otherwise appears appropriate taking into account the *regulatory objectives* of the *Bar Standards Board*; or]

37.2 suspend an authorisation or licence granted by it:

- (a) to give it an opportunity to carry out any investigations into whether or not your authorisation or licence should be revoked in accordance with paragraph 37.1

in each case, by giving notice to you in writing of such revocation or suspension (as the case may be), such revocation or suspension to have effect from the date upon which the *Bar Standards Board* delivers such notice to you unless a later date is otherwise specified within the notice.

E11. Applications for Review

38. If you consider that the *Bar Standards Board* has (other than in relation to a decision by a disciplinary tribunal):

38.1 wrongly refused an application for authorisation or licence; or

38.2 wrongly imposed a condition on an authorisation or licence; or

38.3 wrongly modified the terms of your authorisation or licence; or

38.4 wrongly refused to modify the terms of your authorisation or licence; or

38.5 wrongly revoked or *suspended* your authorisation or licence; or

38.6 wrongly done any of the foregoing in relation to the litigation extension to your authorisation or licence; or

38.7 failed to provide to you notice of a decision in accordance with this section E of Part III,

then you may lodge an application for review of that decision with the *Qualifications Committee* using the form supplied for that purpose by the *Bar Standards Board*. Such application for review will only have been made once the *Bar Standards Board* has received the relevant fee in respect of such application for review.

39. Any individual:

39.1 designated to act as a *HOLP* or a *HOFA*; or

39.2 identified as a non-authorised interest holder, *owner* or *manager* of the *applicant*,

that considers that the *Bar Standards Board* has wrongly concluded that such individual does not meet the *suitability criteria* relevant to their proposed position within the entity, may lodge an application for review of that decision with the *Qualifications Committee* using the form supplied for that purpose by the *Bar Standards Board*. Alternatively, you may lodge an application for review on such individual's behalf whether or not the individual has requested that you make such an application. In either case, such application for review will only have been made once the *Bar Standards Board* has received the relevant fee in respect of such application for review.

40. The time period for applying for a review of the decision is 28 days from the date that the decision is notified to you.

41. If, following the completion of a review lodged under paragraph 38 or 39 of this section E of Part III, you or the relevant individual(s) (as the case may be) still consider that the *Bar Standards Board* has:

41.1 in the case of you and your application:

- (a) wrongly refused an application for authorisation or a licence; or
- (b) wrongly imposed a condition on an authorisation or a licence; or
- (c) wrongly modified the terms of your authorisation or licence; or
- (d) wrongly refused to modify the terms of your authorisation or licence
- (e) wrongly revoked or *suspended* your authorisation or licence; or

- (f) wrongly done any of the foregoing in relation to a litigation extension of your authorisation or licence; or
- (g) failed to provide to you notice of a decision in accordance with this section E of the *Scope of Practice, Authorisation and Licensing Rules*; or

41.2 in the case of an individual, wrongly concluded that such individuals do not meet the *suitability criteria* relevant to their proposed position within the entity,

you or the relevant individual(s) to which the decision relates may appeal to the *First Tier Tribunal*¹ against the *Bar Standard Board's* decision.

- 42. The time period for appealing against a decision to the *First Tier Tribunal* is 28 days from the date that the decision is notified to you.

E12. Register

- 43. The *Bar Standards Board* shall keep a public register containing the names and places of *business* of all *BSB authorised bodies* (together with details of the *reserved legal activities* which such *BSB authorised bodies* are able to undertake) as well as details of any bodies which have in the past been granted authorisation or obtained a licence from the *Bar Standards Board* but where such licence and/or authorisation is no longer current.
- 44. If an authorisation or licence is, at any time, *suspended* or made subject to conditions, this shall be noted on the register of *BSB authorised bodies* by the *Bar Standards Board*.

¹ This will require secondary legislation and confirmation that the First Tier Tribunal's jurisdiction could be expanded to conclude such appeals in the case of barrister only entities and legal disciplinary practices.

F ONGOING COMPLIANCE WITH THE AUTHORISATION AND LICENSING REQUIREMENTS

F1. Non-compliance with the mandatory conditions

1. If, at any time and for whatever reason, you fail to meet the mandatory conditions set out in Section E of this Part III which are relevant to the type of *BSB authorised body* that you are, then you must notify the *Bar Standards Board* of your failure to comply with the mandatory conditions within seven days of your failure to comply and, at the same time, you must submit your proposals for rectifying such non-compliance which, for the avoidance of doubt, shall include your proposed timetable for such rectification. In the event that the *Bar Standards Board* considers that your proposals for rectification are not sufficient, the *Bar Standards Board* may issue a notice suspending or revoking your authorisation or licence (as appropriate) in accordance with paragraph 39 of Section E of this Part III.

Guidance

1. Examples of situations where you may become non-compliant include:
 - 1.1 where your last remaining *barrister*:
 - (a) dies; or
 - (b) abandons, retires or resigns from the practice; or
 - 1.2 where you are a *barrister only entity* or a *legal disciplinary practice*, a *non-authorised individual* is appointed as a *manager* of or otherwise acquires an ownership interest in such *business*, or where you are a *licensable body* and a *non-authorised individual* who is not a *manager* becomes an *owner* (for example upon inheriting the interest from a *manager* who dies);
 - 1.3 where you cease to have available at least one *employee* who is authorised to carry on a particular reserved activity which you are authorised to provide. Examples of situations where an individual should be considered to be unavailable to a *BSB authorised body* include where:
 - (a) they are committed to prison;

- (b) they are unable to attend to the practice because of incapacity caused by illness, accident or age;
- (c) they become and continue to be a person who lacks capacity under Part 1 of the Mental Capacity Act 2005;
- (d) they are made subject to a condition on their practising certificate or registration which would be breached if they continue to be an *owner* and/or *manager* of the body; or
- (e) they are no longer authorised to perform the particular *reserved legal activity*.

1.4 you cease to have a *HOLP* or a *HOFA* appointed;

1.5 your *HOLP*, *HOFA*, any *manager* or *owner* ceases to meet the relevant *suitability criteria*; or

1.6 where you are a *licensed body*, your last remaining *owner* and/or *manager* that is a *non-authorised individual* dies or otherwise leaves the *business*.

2. Examples of proposals that you may submit in order to rectify such non-compliance include:

2.1 In the case of guidance 1.1 above, that you are seeking to appoint a different *practising barrister* to be an *owner* and/or a *manager* of a *BSB authorised body*;

2.2 In the case of guidance 1.2 above, confirmation that you will take the necessary steps to rectify your status, whether by submitting an application to the *Bar Standards Board* for authorisation to practise as a *licensed body* and/or for approval of the *non-authorised individual* as a *manager* or alternatively by ensuring that the *non-authorised person* shall divest themselves of their interest as soon as reasonably practicable or by seeking a licence from another *licensing authority*, as the case may be [but note guidance 3 below];

2.3 in the case of guidance 1.4 above, that you are seeking to appoint a replacement *HOLP* or *HOFA* (as appropriate) in accordance with the relevant procedure set out in Section E of Part III;

2.4 in the case of guidance 1.5 above, that you are taking the necessary steps to exclude the relevant person from the *business* and, where necessary, you are

taking steps to replace the same; and

- 2.5 in the case of guidance 1.6 above, you confirm whether or not you are likely to appoint a replacement *non-authorized individual* or, if not, whether you will be seeking authorisation from the *Bar Standards Board* to practise as a *barrister only entity* or a *legal disciplinary practice* (as appropriate).
3. In respect of guidance 1.2, it may be the case that a *non-authorized individual* obtained an ownership interest in a *BSB authorized body* following the death of a *barrister* or a *non-authorized person*. Similarly, a *non-authorized person* that has not been approved pursuant to the *suitability criteria* may acquire an ownership in a *licensed body*. In these cases, it may be the case that the *BSB authorized body* does not need to submit an application for authorisation to practise as a *licensed body* or an application for approval of such *non-authorized individual* (as appropriate) if the *BSB authorized body* instead satisfies the *Bar Standards Board* that it is taking steps to ensure that such *non-authorized individual* shall divest themselves of their interest as soon as reasonably practicable (for example, on completion of the relevant probate).

F2. Temporary emergency approvals for HOLPs and HOFAs

2. If a *BSB authorized body* ceases to have a *HOLP* or *HOFA* whose designation has been approved by the *Bar Standards Board*, the *BSB authorized body* must immediately and in any event within seven days:
- 2.6 notify the *Bar Standards Board*;
- 2.7 designate another *manager* or *employee* to replace its previous *HOLP* or *HOFA*, as appropriate; and
- 2.8 make an application to the *Bar Standards Board* for temporary approval of the new *HOLP* or *HOFA*, as appropriate.
3. The *Bar Standards Board* may grant a temporary approval under this rule if on the face of the application and any other information immediately before the *Bar Standards*

Board, there is no evidence suggesting that the new *HOLP* or *HOFA* is not suitable to carry out the duties imposed on them under these rules.

4. If granted temporary approval under paragraph 3 above for its designation of a new *HOLP* or *HOFA*, the *authorised body* must:

4.1 designate a permanent *HOLP* or *HOFA*, as appropriate; and

4.2 submit a substantive application for approval of that designation in accordance with Section E of this Part III,

before the expiry of the temporary approval or any extension of that approval by the *Bar Standards Board*.