

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

Future Bar Training: Continuing Professional Development (CPD)

Consultation paper on the
proposed rules and regulations new CPD scheme for the Bar

May 2016

About this consultation paper

What is its purpose?

We want to invite comments on the proposed changes to our Handbook in relation to the new rules and regulations that will provide the formal regulatory framework for the new CPD scheme for barristers which will come into force in January 2017.

How long will the consultation run for?

This consultation will close on 1 September 2016

Our consultation

1. This consultation paper sets out the proposed changes to the rules and regulations in the BSB Handbook concerning Established Practitioner Programme barristers' CPD requirements. This will replace the current Established Practitioners Programme requirements from 1 January 2017.
2. The rules and regulations give particular consideration to the definition of CPD and to the operational guidance that barristers need to follow.
3. A copy of the current operational guidance is provided at Annex 1. A final version of this guidance will be provided to all barristers later in the year. This guidance has been updated in the light of comments received on our consultation run on 1 June until 4 September 2015

What about the New Practitioners Programme?

4. The current New Practitioners Programme (NPP) will remain unchanged. The Handbook changes will reflect that the requirements of the NPP have not changed.

The new CPD scheme and the BSB's approach to regulation.

5. The legal sector's regulatory environment is in a period of development and refinement. Regulators are removing prescriptive regulations in favour of regulatory requirements that are outcomes focused. In addition the implementation of regulation is now more risk based. This means that we have removed the requirement to undertake a prescribed number of CPD hours per year and instead leave it to each barrister to take responsibility for the type and amount of CPD that they do.
6. The changes to the BSB's CPD requirements reflects how we regulate has changed. The rules and regulations will underpin a CPD scheme which is more flexible for barristers but will still allow the BSB to take supervisory and enforcement action when necessary.
7. In order to facilitate this updated way of regulating CPD, barristers will be required to demonstrate that they have planned their CPD in a structured way. They will have more flexibility in the kinds of CPD activities that they can complete.
8. A full explanation of the operational position is found in the 2015 operational guidance consultation paper (found [here](#)), the published consultation report (found [here](#)) and the operational guidance

New CPD scheme background summary

2007: The Bar Standards Board committed to review all stages of education and training at the Bar. As part of our commitment we have considerably reviewed the future development of CPD over the last six years

2013: The Board approved a policy shift in CPD moving away from a prescribed number of hours of CPD to an outcomes focused approach (focusing on the impact of a barristers learning on their ability to provide a competent service

2015: BSB launched a consultation on the operational implementation of the new CPD scheme. A pilot of the new CPD scheme was also run

2016: The consultation and pilot report were published. The Board agreed to proceed with the new scheme and begin the process of drafting appropriate Handbook provisions.

Current CPD rules

9. The current CPD rules emphasis the number of hours that need to be completed. They make no reference to the quality of the CPD activities completed or how they fit in with a barrister's overall practice or previous professional development that the barrister has undertaken.

Current CPD Rules

C. The CPD Rules

The Mandatory Continuing Professional Development Requirements

rQ1 For the purpose of this Section 4.C:

- .1 "calendar year" means a period of one year starting on 1 January in the year in question;
- .2 the "mandatory requirements" are those in Rules rQ2 to rQ7 below.
- .3 a "*pupillage* year" is any calendar year in which a *barrister* is at any time a *pupil*.

rQ2 Any practising *barrister* who, as at 1 October 2001, had started but not completed the period of three years referred to in the Continuing Education Scheme Rules at Annex Q to the Sixth Edition of the Code of Conduct must complete a minimum of 42 hours of continuing professional development during his first three years of *practice*.

Guidance on Rules rQ2

gQ1 Rule rQ2 is intended to apply only in those limited circumstances where a *barrister* started *practice* before 1 October 2001 but after the New Practitioners Programme ("NPP") first came into force, left *practice* before completing the NPP, but has since returned. Rule rQ2 requires them to finish their NPP during whatever is left of their first three years of *practice*.

rQ3 Any practising *barrister* who starts *practice* on or after 1 October 2001 must during the first three calendar years in which the *barrister* holds a practising certificate after any *pupillage* year complete a minimum of 45 hours of continuing professional development.

rQ4 Subject to Rule rQ5, any *barrister*:

- .1 must, if he holds a practising certificate or certificates throughout the whole of any calendar year, complete a minimum of 12 hours of continuing professional development during that period; and

- .2 must, if he holds a *practising certificate* or certificate for part only of a calendar year, complete one hour of continuing professional development during that calendar year for each month for which he holds a *practising certificate*.

rQ5 Rule rQ4 does not apply:

- .1 in the case of a *barrister* to whom Rule rQ2 applies, to any calendar year forming or containing part of the period of 3 years referred to in Rule rQ2; or
- .2 in the case of a *barrister* to whom Rule rQ3 applies, during any *pupillage* year or during the first three calendar years in which the *barrister* holds a *practising certificate*.

rQ6 Any *practising barrister* must submit details of the continuing professional development he has done to the *Bar Standards Board* in the form prescribed, and at the time specified, by the *Bar Standards Board*.

rQ7 The *Bar Standards Board* may, by resolution, specify the nature, content and format of courses and other activities which may be done by *barristers* (or by any category of *barristers*) in order to satisfy the mandatory requirements.

rQ8 The *Bar Standards Board* may, by resolution and after consultation with the Inns, Circuits and other providers as appropriate, increase the minimum number of hours of continuing professional development which must be completed in order to satisfy any of the mandatory requirements.

What we are proposing

10. The proposed new rules and regulations will serve to underpin the new CPD scheme. They will set out the regulatory requirements for the new CPD scheme and will provide the regulatory framework to allow for the supervision and if necessary enforcement of non-compliance with those requirements.
11. The aim of the new CPD scheme is to ensure that barristers complete relevant CPD activities in a structured manner. From a regulatory point of view, our CPD assessment team wants to ensure barristers complete their CPD requirements. We therefore intend to take a supervisory approach by helping barristers to comply with CPD requirements, and will only take enforcement action if absolutely necessary.
12. This means that we only anticipate having to take enforcement action where there is repeated non-compliance with the CPD requirements, or where supervisory action set by the CPD assessment team is not completed.

13. We will take action where evidence suggests there is a risk a barrister could be non-compliant. We will try to resolve non-compliance by supervising barristers and helping to bring them back on track through corrective action rather than taking disciplinary action.
14. The new rules and regulations therefore have to ensure that;
 - I. They are clear so that non-compliance with CPD requirements can be identified and enforced against where necessary
 - II. They are not so prescriptive that barristers do not have appropriate flexibility determining how best to complete their CPD
 - III. They do not encourage barristers to treat CPD as a tick box exercise.
15. The rules aim to make sure that barristers are aware of the definition of CPD, that they are aware that the type of CPD that they chose to undertake is important and that they should have due regard to the BSB's operational guidance on how to comply. The rules however are not there to provide a prescribed set of CPD activities that should be completed.
16. This approach is in line with the BSB's risk and outcomes based approach to regulation

Proposed new CPD Scheme rules

C. THE CPD RULES

The mandatory continuing professional development requirements

rQ130 For the purpose of this Section 4.C:

- 1 "calendar year" means a period of one year starting on 1 January in the year in question;
2. "continuing professional development" ("CPD") means work undertaken over and above the normal commitments of a *barrister* and is work undertaken with a view to developing the *barrister's* skills, knowledge and professional standards in areas relevant to their present or proposed area of practice in order to keep the *barrister* up to date and maintain the highest standards of professional practice.
3. "CPD Guidance" means guidance issued by the Bar Standards Board from time to time which sets out the CPD requirements with which an EPP *barrister* must comply.
4. "EPP" means the Established Practitioners Programme which requires *barristers*, once they have completed the NPP, to undertake CPD during each calendar year in accordance with these Rules and the CPD Guidance.
5. the "mandatory requirements" are those in Rules Q131 to Q138 below.
6. "NPP" means the New Practitioner Programme which requires barristers to complete CPD in their first three calendar years of practice in accordance with these rules and relevant CPD.
7. a "*pupillage year*" is any calendar year in which a *barrister* is at any time a *pupil*.

rQ131 Any practising *barrister* who, as at 1 October 2001, had started but not completed the period of three years referred to in the Continuing Education Scheme Rules at Annex Q to the Sixth Edition of the Code of Conduct must complete a minimum of 42 hours of CPD during his first three years of *practice*.

Guidance

Guidance on Rule Q131

gQ1 Rule Q131 is intended to apply only in those limited circumstances where a *barrister* started *practice* before 1 October 2001 but after the NPP first came into force, left *practice* before completing the NPP, but has since returned. Rule Q131 requires them to finish their NPP during whatever is left of their first three years of *practice*.

rQ132 Any practising NPP *barrister* who starts *practice* on or after 1 October 2001 must during the first three calendar years in which the *barrister* holds a *practising certificate* after any *pupillage* year complete a minimum of 45 hours of CPD.

Guidance

Guidance on Rule Q132

gQ2 NPP *barristers* should have regard to rQ137 and the NPP guidance which will note the details of any compulsory courses the NPP *barristers* must complete. It also provides guidance as to the types of activities that count towards CPD.

rQ133 Subject to Rule Q136, any EPP *barrister* who holds a *practising certificate* or certificates during a calendar year must undertake CPD.

rQ134 An EPP *barrister* who is required to undertake CPD must:

1. prepare a CPD Plan setting out the *barrister's* learning objectives and the number of hours and types of CPD activities he or she proposes to undertake during the calendar year;
2. keep a record of the CPD activities the *barrister* has undertaken in the calendar year and retain evidence of completion of CPD for a period of three years;
3. keep a record in the CPD Plan for each calendar year of:
 - a. the *barrister's* reflection on the CPD he or she has undertaken;
 - b. any variation in the *barrister's* planned CPD activities; and
 - c. the *barrister's* assessment of his or her future learning objectives.
4. submit to the Bar Standards Board an annual declaration of completion of CPD in the form specified in the CPD Guidance

Guidance

Guidance on Rules Q133 and Q134

gQ3, EPP *barristers* who are required by these Rules to undertake CPD should refer to the CPD Guidance. The CPD Guidance provides further detailed information which EPP *barristers* should use to plan, undertake and record their CPD.

The CPD Guidance explains that these Rules do not specify a minimum number of CPD hours which an EPP *barrister* must undertake in a calendar year: it is the responsibility of the individual *barrister* to determine the CPD activities he or she will undertake in order meet the requirements of CPD. The Bar Standards Board will assess and monitor *barristers'* compliance with CPD.

rQ135 Upon the request of the Bar Standards Board, a *barrister* must produce his or her CPD Plan and record of CPD activities for assessment.

rQ136 Rule Q133 does not apply:

.1 in the case of a *barrister* to whom Rule Q131 applies, to any calendar year forming or containing part of the period of 3 years referred to in Rule Q131;

or

.2 in the case of a *barrister* to whom Rule Q132 applies, during any *pupillage* year or during the first three calendar years in which the *barrister* holds a *practising certificate*.


rQ137 The *Bar Standards Board* may, by resolution, specify the nature, content and format of courses and other activities which may be undertaken by *barristers* (or by any category of *barristers*) in order to satisfy the mandatory requirements.

rQ138 The *Bar Standards Board* may, by resolution and after consultation with the Inns, Circuits and other providers as appropriate, vary the minimum number of hours of CPD which must be completed by an NPP *barrister* in order to satisfy any of the mandatory requirements.

Consultation Question

1. Do you think the proposed rules and regulations provide the necessary regulatory framework to support the new CPD scheme? Please explain your views.

Please reply to: <mailto:cpdrecords@BarStandardsBoard.org.uk>



BAR
STANDARDS
BOARD

REGULATING BARRISTERS

Continuing Professional Development (CPD) Guidance for barristers

Who is this guidance for?

This guidance explains the Bar Standards Board (BSB)'s new Continuing Professional Development (CPD) regime for the **Established Practitioners Programme (EPP)**. If you are an established barrister on the EPP this guidance is for you. The guidance is designed to provide practical support to help you complete your requirements. It has been designed with the assistance of barristers from a range of seniority and practice areas.

The CPD regime for Established Practitioners will change with effect from 1 January 2017. From this date you should comply with the new CPD requirements.

The guidance will be reviewed during the operation of the new approach to CPD. You are encouraged to share your feedback with us. To do so, you should contact cpdrecords@BarStandardsBoard.org.uk. We are keen to ensure that the guidance is as helpful as possible and will update and refine it in the light of comments and suggestions received.

What about the New Practitioners Programme (NPP)?

The requirements for *new* barristers are not changing. **NPP** barristers will continue to follow the current CPD requirements. This means that those barristers in their first three years of practice will continue to follow the NPP.

The CPD definition

We define CPD as work undertaken over and above your normal commitments as a barrister. CPD is undertaken with a view to developing your skills, knowledge and professional standards in areas relevant to your present or proposed area of practice. This is in order to keep yourself up to date and maintain the highest standards of professional practice.

The definition of CPD has not changed. However the EPP requirements and assessment process has changed.

How has the EPP changed?

Summary of changes

- There is **no** minimum number of hours that you need to complete.
- You now have individual responsibility for what training you require.
- There is no longer a requirement to complete accredited hours.
- You have increased flexibility in the types of CPD activities that you can complete.

- We will assess whether you have planned and completed your CPD in a structured way.
- Assessments of CPD will be made with regard to what CPD has been completed in previous years.
- The role of our supervision team in setting Corrective Action for non-compliance has been formalised. This means that the focus on the regulation of CPD will not be on disciplinary action but on ensuring that you comply with the CPD requirements.

Compliance with the CPD scheme will continue to be monitored and assessed via spot checking.

Referral to the Professional Conduct Department will be reserved for those incidents of persistent non-compliance or non-cooperation

Why have these changes been made?

We want the new scheme to be

- Less prescriptive
- More flexible
- More suited to your actual training needs
- Less likely to result in irrelevant CPD activities being completed
- Less likely to result in unnecessarily severe supervision and enforcement action being taken for non-compliance

In addition the new regime will ensure that the CPD requirements help you to maintain high standards of practice. We have done this by creating a risk-based and outcomes focused approach to CPD. This is a departure from the current more prescriptive approach.

The CPD scheme puts in place a structure that allows you to determine your own training requirements for the year in an efficient way. It also allows us to assess whether you have planned and completed your CPD in a structured way

The change to CPD is in line with what is regarded as best practice for regulation of professional services. It therefore provides greater assurances to the public that the profession and the regulator are meeting their regulatory requirements.

What this means for your Practice

If you are an Established Practitioner there is no longer a prescribed number of CPD hours which must be completed every year.

The responsibility is for you to determine the type and amount of CPD that is necessary to maintain your competence and ensure high standards of practice.

We will continue to monitor CPD by spot checking. The focus will be on barristers that are at higher risk of non-compliance with their CPD requirements, supplemented with a random sample of the profession. High risk will be established, amongst other things, with reference to a barrister's history of non-compliance with the Bar's Handbook.

Benefits of the new CPD Scheme

- There is no need to complete a minimum amount of CPD, including a minimum amount of accredited CPD. This should save you time and money as you do not need to attend courses just to complete 12 hours of CPD.
- There is no incentive to complete irrelevant CPD activities.
- The types of CPD available are more flexible. For example, there is no restriction on the amount of legal writing which can be completed.
- The scheme takes into account CPD completed in previous years. This means CPD can be planned with anticipated work load and can be directly carried over between years.
- There is no longer an extension or waivers process. If your circumstances mean that less CPD needs to be completed due to maternity leave, ill health or another reason then this only needs to be noted on your CPD plan. This means that the regulation is less bureaucratic.
- As a result, we will be able to spend more time focussing on "High Risk" barristers and those who are not engaging with the CPD process or completing appropriate CPD. It means we can spend less time regulating barristers who may have made technical breaches of the CPD requirements.

The CPD cycle

In the following section we guide you through the different stages in the planning, recording, reflection and declaring cycle for CPD:

- Stage 1: Planning;
- Stage 2: Recording and evidence;
- Stage 3: Reflecting on your CPD activities;
- Stage 4: Declaring competence.

During the planning stage you should assess the training needs that are required to complete your CPD. You should complete a plan of the CPD that you are going to undertake. You should do this by setting learning objectives (see pages 4-12 for more information) which should provide specific aims and outcomes of the CPD you plan to undertake.

During the recording and evidence phase you should complete CPD activities and record them.

The reflection phase takes place once the CPD activities have been completed for the year. At this point you should reflect on the CPD activities you have completed. This should include noting;

- Which learning objectives you completed,
- Which learning objectives you did not complete and the reasons why not,
- Which learning objectives you changed,
- What you need to complete in future years.

Finally you should make a formal declaration that you have completed your CPD requirements.

Your compliance with the CPD scheme will continue to be monitored and assessed by us via spot checking. However our role in setting Corrective Action for non-compliance has been formalised. Referral to our Professional Conduct Department will primarily be reserved for those incidents of persistent non-compliance or non-cooperation.

Stage 1: Planning

Setting learning objectives

At the beginning of each CPD year, you must determine your **learning objectives**.

A learning objective is a statement of what you hope to achieve through your CPD activities and an explanation of why you want to achieve it.

Learning objectives should have an aim and one or more outcome. Learning objectives should be specific and measurable.

An example of a good learning objective:

“To become qualified to provide direct access advice to the public improve my ability to provide advice to a wide range of clients and deliver a cost-effective service to lay clients”.

“...become qualified to provide direct access advice to the public” is a specific aim.

“...improve my ability to provide advice to a wide range of clients” is an outcome

“...deliver a cost-effective service to lay clients” is a second outcome

What to consider when planning your learning objectives

When planning your learning objectives and the range of CPD that you plan to carry out, you should consider the following knowledge and skill areas.

These knowledge areas relate to the different competencies that you should be developing and maintaining through CPD.

<p>Legal knowledge and skills</p>	<p>It is a Handbook requirement (Part 2 of the BSB Handbook) that you must not provide services to clients beyond your competence.</p> <p>As a general rule, the more areas of law in which you hold yourself out as practising, the greater the need for CPD. You should assess:</p> <ul style="list-style-type: none"> • If you are competent to offer services in any particular field of law; • The specific areas of development which are required; • The type and breadth of CPD that you require in order to maintain a sufficient level of legal knowledge and skills in these areas.
<p>Advocacy</p>	<p>Being able to provide good quality advocacy services is a central skill for the vast majority barristers across every practice area.</p> <p>You should be able to provide a level of advocacy appropriate for your level of seniority and experience.</p> <p>This includes the ability to;</p> <ul style="list-style-type: none"> • Cross examine witnesses • Submit pleas in mitigation • Make use of skeleton arguments • Make appropriate oral submissions.
<p>Practice management</p>	<p>It is a regulatory requirement that you know and understand what is required of you in managing your practice effectively.</p> <p>This may include topics such as:</p> <ul style="list-style-type: none"> • <u>Financial management</u>; • Risk management; • Money laundering regulations <p>Your approach to CPD in relation to the way you manage your practice will depend upon the nature of your practice.</p> <p>You should take into account your type of practice when choosing your CPD activities. You should make sure that you carry out CPD that best delivers the outcome suited to the type of practice in which you operate.</p>

	<p>By types of practice we mean:</p> <ul style="list-style-type: none"> • Self-employed sole practitioner • Self-employed in Chambers • Employed as in-house counsel • Employee or manager of an authorised entity • Dual capacity. <p>Roles in practice</p> <p>You should also take into account your individual role or roles in your practice when planning and undertaking your CPD activities. For example, you should consider CPD requirements for roles such as:</p> <ul style="list-style-type: none"> • Head of Chambers • Tenant • Pupil Supervisor • Pupillage Recruitment Manager • Owner or manager of a BSB authorised entity
<p>Working with clients and others</p>	<p>You must make sure that your knowledge and skills enable you to;</p> <ul style="list-style-type: none"> • Communicate effectively with clients and others orally and in writing. • Give clear and comprehensible advice to professional and lay clients. • Be transparent about the basis of your instructions and your fees <p>Equality and diversity</p> <p>You must be able to demonstrate that you understand:</p> <ul style="list-style-type: none"> • The implications for your practice of equality and diversity legislation; • Procedures and techniques to work with vulnerable witnesses, victims and clients as appropriate to your practice. <p>Public access</p> <p>If you wish to conduct public access work you are required to complete BSB accredited training in order to do this.</p> <p>This training can count towards CPD.</p>
<p>Ethics, professionalism and judgement</p>	<p>It is essential that you are familiar with your regulatory requirements and our outcomes-based approach to regulation.</p> <p>You may wish to consider:</p> <ul style="list-style-type: none"> • Your ability to act confidently in your legal practice • Your approach to your work and your ability to correct errors or admit your limitations • Your interpersonal skills • Issues of equality and diversity within your practice

Type and nature of CPD

You should note the type and nature of the CPD activities you intend to complete in order to meet your learning objectives. This part of the plan should be made with a view to ensuring that you complete a balance of CPD activities.

In this context a balance of CPD activities means that you should complete a variety of different types of CPD activities, such as lectures, online courses, reading etc.

Examples of CPD Plans and learning objectives

Examples of compliant CPD Plans

The following four examples of CPD Plans would be assessed as compliant with the requirements. **Assessment comments** have been added to each example to highlight key points about why the example would be considered compliant.

Example 1

Learning Objectives

Legal Knowledge and Skills

- 1) To improve my knowledge of non-contentious employment matters so that I can deliver more effective advice to clients about risk management.
- 2) To undertake mediation training so that I can provide a wider range of services.

Practice Management

- 3) To increase my knowledge and awareness of different funding products and fee structures for clients. This will allow me to provide better access to justice through a fairer and more cost effective fee structure

Describe the type and nature of CPD you intend to undertake; include how that will support achievement of your learning objectives

I intend to undertake a broad range of CPD which will incorporate;

- Online podcasts and webinars.
- Preparing and giving my own seminars to lay and professional clients
- Attendance at "live" seminars and lectures.

This will allow me to obtain CPD from recognised experts in the relevant fields (who may be based some distance away), provide me with an opportunity to carry out my own research and cement my understanding of particular topics. It will also enable me to engage with seminar providers to ask relevant questions of matters that may be particular to my own practice.

Assessment comments:

- **These learning objectives are concise but explain both the aim and the outcome of the learning objective.**
- **Note in particular that the first learning objective has a fairly wide aim (increasing knowledge of non-contentious employment matters). However a specific outcome is provided 'So that I can deliver a more effective risk management service to clients'**
- **A different barrister could have the same aim but a different outcome e.g 'So that I am more confident in providing advice to commercial clients about drawing up redundancy policies'**

Example 2**Learning objectives:****Legal Knowledge and Skills:**

- 1) To deepen my understanding of international law elements of my practice so that;
 - I know the regimes by which evidence can be obtained and used in court proceedings from other countries
 - I know the practice procedures and legal principles in the international courts in which I intend to develop my practice.
- 2) To update my knowledge of recent judgments in the field of professional discipline in order to better comply with regulatory requirements.

Practice Management:

- 3) To understand the changes in regulation being undertaken by the BSB in relation to practising as a self-employed barrister in Chambers within the context of a limited company rather than a sole practitioner, in order to deliver a cost effective service to clients.

Ethics and professionalism

- 4) Deepen my knowledge and understanding of the BSB Handbook as it applies to self-employed barristers so that I am complying with the regulatory requirements and particularly that I am administering my practice effectively.

Describe the type and nature of CPD you intend to undertake; include how that will support achievement of your learning objectives

- 1) Conduct regular Westlaw searches of regulatory judgments and receive bulletins of the same. Seek to engage with a casebook author to assist in publication of an updated version.
- 2) Attend lectures and seminars on cybercrime and terrorism, ideally coordinated by recognised international public or academic institutions.
- 3) Review the training materials by UK governmental bodies on the use of International Letters of Request and Mutual legal assistance treaties.
- 4) Review the BSB guidance and seek professional advice on the impact of practising as a limited company.
- 5) Review the BSB rules and guidance surrounding marketing of barristers' services. Review and re-work current marketing materials.
- 6) Teach two session at my Inn's course on Ethics for New Practitioners.
- 7) Teach a session at my Chambers training for pupils. This will require me to refresh my knowledge of the Handbook by preparing for the session and will require me to reflect on ethical issues through leading an interactive session.

Assessment comments

- **These learning objectives are all related to the specific CPD knowledge areas. They also provide detailed activities and specific outcomes.**
- **Note that objective 1 has two distinct outcomes associated with it. It is not necessary to create a large number of different learning objectives when there are a few aims with multiple outcomes that will be achieved.**
- **The barrister is rightly using teaching and presenting seminars and other CPD activities as a way of completing their CPD. Providing CPD activities generally require a barrister to refresh their knowledge of the subject area by preparing for the new sessions. It can sometimes also allow the barrister to learn from other trainers with me at the session**

Example 3**Learning objectives:****Legal Knowledge and Skills**

- 1) To maintain knowledge and understanding of my main practice areas. This is to ensure that upon returning to work from maternity leave I am not behind with any updated authorities.
- 2) To continue to develop knowledge, awareness and experience in the cross over between criminal prosecution and the regulation of care homes under the Care Quality Commission, so that I can undertake general instructions in this area to which I am new

Advocacy: Oral and Written

- 3) Refresh my advocacy skills in order to ensure I am up to date with current advocacy techniques.

Practice Management

- 4) To improve my IT skills in order to ensure I am complying with information security best practices'.

Describe the type and nature of CPD you intend to undertake; include how that will support achievement of your learning objectives

- 1) Attend seminar on regulation of care homes.
- 2) Audio lectures on Advocacy techniques certified by the Circuits or Inns of Court.
- 3) Volunteer to help organise my Inn's training day on Criminal Advocacy and help deliver training during the day.
- 4) Organise a round table discussion for members of Chambers' criminal team on developments in advocacy relating to vulnerable witnesses.
- 5) Attend lectures relating to information security best practices.

Assessment comments

- **The aim of the first learning objective 'to maintain knowledge and understanding of my main practice areas' is quite generic in nature. However it also relates to a specific training need and outcome identified by the barrister because of their circumstances, in this case maternity leave.**
- **Again the aim of the second learning objective is quite generic. However the outcome relates to a specific circumstance of the barrister. In this case their seniority and level of experience.**
- **The third learning objective relates to specific practical skills that the barrister wants to improve. Once again this aim of this learning objective (improving IT skills) is broad and could have had a range of different outcomes. Eg. 'So that I able to deliver a quality and cost effective service to both professional and lay clients.**

Example 4**Learning objectives:****Practice Management**

- 1) To ensure that my knowledge of the rules which are ancillary to my main areas of practice are fully up to date, specifically continuing changes to Civil Procedure Rules and Costs rules
- 2) To improve client care by enhancing in-Chambers record keeping and communication of advice with Direct Access clients.
This will ensure that;
 - Advice has been understood by clients.
 - Client questions/issues have been addressed and/or resolved.

Legal Knowledge and Skills

- 3) To enhance existing qualifications/ maintain accreditations as mediator/ mediation advocate /continuing direct access authorisation
- 4) To further develop knowledge of core subject areas of practice, focussing this year specifically on trusts and trustees and obligations of LPA attorneys

Describe the type and nature of CPD you intend to undertake; include how that will support achievement of your learning objectives

Support – each activity is individually addressed to each learning objective and is measurable by reference to

- independent accreditation or testing
- independent monitoring of attendance
- appropriate note taking for future reference and/or review

Objective 1 to be met by attendance at a professional one day accredited CPD courses on each of these two subjects

Objective 2 to be met by attendance at a professional one day accredited CPD courses. This will be followed by taking re-accreditation tests)

Objective 3 to be met by attendance at Chancery Bar Association accredited seminar(s), then detailed research and study

Objective 4 to be met by arranging one to one training by suitably qualified provider.

Assessment comments.

- This plan lists four detailed specific learning objectives which have measurable clear outcomes. These learning objectives are related back to the CPD Knowledge areas and the types of activities the barrister intends to undertake.
- Objective two relates to the barrister changing Chambers record keeping systems. Depending on the barristers position in Chambers (i.e a Head of Chambers) this could fall within scope of CPD.

Examples of non-compliant CPD Plans

The following two examples of CPD Plans would be assessed as non-compliant with the requirements. **Assessment comments** have been added to each example to highlight key points about why the example would be considered non-compliant.

Example 5.

Learning objectives:

- 1) To improve knowledge of Commercial Law
- 2) Attending lectures in person and online

Assessment comments

- The second learning objective actually describes the type and nature of the CPD activities the barrister intends to carry out.
- This plan does not provide a specific measurable learning objective which has either an aim or an outcome.
- The second learning objective actually describes the type and nature of the CPD activities the barrister intends to carry out.
- There is no plan as to how the CPD will be structured or how attended the lectures in person or online will support the learning objective.
- The learning objectives are not linked back to the CPD knowledge areas.

Example 6.

Learning objectives:

- 1) To ensure I am up to date with the legal developments, practice and procedure in my area of work and to understand the most current thinking of specialists in my area of work.

Assessment comments

- This plan provides only a single learning objective. The learning objective does not provide any detail as to the particular practices or procedures the barrister needs to keep up to date with.
- Understanding the current thinking of specialists in the area of work could be a worthwhile learning objective. However in this case there is no further detail added. For example there no outcomes associated with it.

Stage 2: Recording and evidence

During stage 2 you will record the relevant CPD activities that you have completed that have met your learning objectives.

Scope of CPD

Types of CPD include:

- Taking part in formal face-to-face training courses, including university courses;
- Online courses;
- Attending conferences;
- Taking part in seminars or webinars;
- Reading or research;
- Authorship and editing of published works of a professional nature.
- Presenting seminars, lectures and workshops
- Teaching a relevant legal course eg LLBs LLMs The GDL BPTC LPC or Diplomas in Law

The following activities do not count towards CPD:

- Work completed as part of actual practice, including pro-bono or volunteer work
- Research completed as part of actual practice, including pro-bono or volunteer work
- Updating social media accounts including twitter
- Following a social media account
- Learning a foreign language

We encourage you to carry out a wide variety of CPD activities.

Each barrister's practice is different, and as such we do not prescribe one structure or amount of CPD to be carried out by all members of the profession.

Evidence

You are encouraged to keep a note or evidence of the CPD activities that you have completed over the past three years of practice. This may include:

- Title/description of your CPD activity;
- Date (or date range) of your activity;
- Type of CPD activity;
- CPD provider (where applicable);
- Knowledge area the CPD activity relates to
- Learning objective(s) met by the CPD activity;
- Reflection on your CPD;
- Evidence confirming you have taken part in CPD activity.

We recognise that retaining evidence may not always be practicable; that is why we are not making it a requirement to do so. However, if you are spot-checked you will be asked to produce any evidence that you have retained or take steps to acquire it. The onus will be on you to demonstrate that you have undertaken the CPD that you say you have.

Your evidence may include:

- An attendance record
- A certificate of completion/achievement
- Confirmation of results
- Notes compiled undertaking research or reading
- A sample of credited published journals/articles

This should not be considered an exhaustive list of what may be considered evidence of completion.

Stage 3: Reflecting on your CPD activities

You are required to reflect on the CPD activities you have planned and completed throughout the year.

You should complete an assessment of the extent to which your planned activities have met your learning objectives - after each CPD activity and at the end of each CPD year. This is a useful exercise to:

- Maximise the effectiveness of your learning
- Make sure you can adapt your CPD throughout the course of the CPD year to achieve your desired learning objectives
- Help inform learning objectives for future years

This is also an opportunity for you to change the course of your planned CPD if your circumstances change during the year.

Stage 4: Declaring compliance

You must declare that you have carried out suitable CPD each year.

The CPD year runs from January to December. As such, you will be able to declare compliance with the CPD regulations and complete Authorisation to Practise requirements (which require action in February and March) simultaneously.

We may ask for evidence that you have carried out the activities contained in your CPD record and plan. You may also need to send us supporting evidence of your CPD.

How we assess your CPD

We will assess your CPD Plan and Record based on all four stages of the CPD cycle and in accordance with assessment criteria.

Planning stage assessment

We will check:

- That you have considered the four recommended CPD knowledge areas in which CPD activities could be undertaken
 - Legal knowledge and skills
 - Practice management
 - Working with clients and others
 - Ethics and professionalism
- That you have set yourself relevant learning objectives with specific aims and outcomes
- That you have considered how your learning objectives and proposed CPD activities are relevant to your practice
- That you have evaluated your own strengths and weaknesses.

CPD activities assessment

We will:

- Check the relevance of the CPD activities you have carried out against the area of practice you undertake and the learning objectives you recorded at the planning stage
- Consider your experience (compared to the activities carried out and the type of CPD activities you completed in previous years)

You will not necessarily be non-compliant if there is a variation between the learning objectives at your planning stage and the CPD activities you have completed. However, any differences that have arisen should be noted and addressed in the reflection stage.

There is no minimum number of CPD hours that you need to complete. Completing fewer than 10 hours of CPD is likely to draw additional scrutiny from our assessment team which may require justification. However it does not automatically mean a barrister is non-compliant.

Equally, carrying out a large number of CPD hours by itself does not guarantee compliance.

Reflection stage assessment

We will check:

- That you have reflected on how your activities have met your original learning objectives
- Whether any variations between learning objectives and activities occurred
- Your assessment of future learning objectives

Declaration stage assessment

We will check that you have submitted a declaration of your completion of the CPD requirements.

The assessment criteria

The CPD assessment criteria will examine each of these areas using a risk-based outcomes-focused framework. This means that the Plan and Record Card are evaluated as a whole for compliance. Failure to complete individual elements of the process will not automatically lead to an assessment of non-compliance.

Examples that may lead to an assessment of non-compliance:

- CPD activities that are obviously not relevant to your practice or proposed area of practice
- Completing a minimal amount of CPD over a number of years, with no justification of this in your learning objectives
- Completing exactly the same CPD activities over a number of years with no adequate justification. E.g attending the same 'Introduction to Advocacy' course over a ten year period
- Completing a CPD activity that is clearly below your level of expertise
- Disregarding the CPD process.

Our supervision and enforcement approach

You will have a wide discretion as to the amount and type of CPD you complete. It is hoped that following the structure in this guidance you will be compliant with your CPD. However, in some instances the CPD you have completed may not be assessed as compliant.

When you are assessed as non-compliant the CPD assessment team will try to use supervision to ensure compliance. It is anticipated that enforcement action will occur only in cases where a barrister does not engage with supervision or is repeatedly non-compliant.

Here is a summary of the approach that we will take to supervision and enforcement:

1. Barrister is selected for a spot check
2. Barrister submits CPD Plan and Record Card
3. CPD Assessment Team assesses Plan and Record Card
4. CPD Assessment Team may assess CPD as
 - (i) Compliant.
 - (ii) Compliant but feedback required
 - (iii) Non-compliant.
5. If CPD Assessment Team identifies non-compliance then Corrective Action is given to the barrister.
6. If barrister satisfactorily completes Corrective Action, CPD requirements are noted as completed. Barrister is likely to be re-spot checked in future to ensure ongoing CPD compliance.
7. If barrister does not complete Corrective Action or assessment is of repeated non-compliance then barrister is referred to Professional Conduct Department.

Detail of Supervision and enforcement process

Where an assessment of non-Compliance is made - for example if we are not satisfied that the completed CPD activities are relevant to your stated learning objectives - the CPD Assessment Team will, in the first instance, deal with this through supervision and Corrective Action.

Corrective Action

Corrective Action is used by us to correct identified non-compliance with the CPD requirements. It is an alternative to referring the matter to the Professional Conduct Department for disciplinary action.

The range of Corrective Actions includes being required to;

- Carry out (or discount as CPD) a particular type of CPD activity
- Complete additional CPD hours
- Expand on your planning or reflection stage (either in the current CPD year or for future CPD years)
- Confirm your area of practice or proposed areas of practice
- Confirm that you have understood and acknowledged our feedback

When you have been set Corrective Action you will be informed of this along with any associated deadlines.

Feedback

In some cases the CPD assessment team will assess a Plan and Record Card as compliant but note some areas of recommended action to improve the record. These recommended actions will be provided as feedback.

Our enforcement process

After Corrective Action has been set, escalation of a case to the Professional Conduct Department will occur if:

- You refuse to complete the Corrective Action that has been set
- You repeatedly refuse to complete the CPD process in full
- You carry out CPD activities the majority of which are irrelevant to your stated learning objectives.

Other areas that could lead to enforcement action:

- Instances of dishonesty, including if you falsely declare completion of the CPD cycle
- Failure to supply a CPD record and plan when called upon to do so

We will not normally make a referral to the Professional Conduct Department for a single isolated breach of the CPD rules, although the seriousness of the breach may be taken into consideration.

The resulting enforcement action will usually be taken owing to

- (i) A breach of the CPD requirements [ref.] as assessed by the CPD Assessment Team which might be seen as a failure to meet Core Duty 10

“You must take reasonable steps to manage your practice, or carry out your role within your practice, competently and in such a way as to achieve compliance with your legal and regulatory objectives”

Or

- (ii) Non-cooperation with the regulator which is a failure to meet Core Duty 9

“You must be open and cooperative with your regulators”

If you are referred for consideration of enforcement action, the PCD will deal with the referral in accordance with the provisions of Part 5 of the Handbook and any relevant operational processes and policies.

Contact us

If you have any questions or concerns about the CPD process we will be happy to help.

Contact: cpdrecords@BarStandardsBoard.org.uk