

BAR STANDARDS BOARD

REGULATING BARRISTERS

Assuring the competence of barristers

Introduction

1. Assuring the competence of barristers is a fundamental role of the BSB, as a public interest regulator. In doing so, we ensure that the public has access to competent representation and that poor practice is identified and addressed.
2. We set out in this statement our approach to assuring competence. We seek to strike the balance between proportionate regulation and encouraging the profession to take responsibility for its own professional development and competence. We do this through a regulatory framework that sets clear expectations for barristers and appropriate safeguards for members of the public and focussing our regulatory attention where there is evidence of the greatest need for us to do so. Allied to this is a focus on helping barristers to remain competent to practise. Disciplinary action where there is evidence of standards not being met, whilst an option, will be a last resort.

Our regulatory approach

3. The BSB has, over the last few years, put in place a range of regulatory arrangements designed to assure competence. This include a new, more flexible approach to CPD and the introduction of the Professional Statement which sets the standards for entry to the profession. These have been supported by the development of information gathering arrangements on professional competence of barristers and an improving understanding of externally controlled means of assuring competence. The aim of this regulatory approach has been to develop a regulatory framework that supports the whole profession taking greater responsibility for its own professional competence and limiting regulatory intervention to where it is most needed.
4. Targeted regulation has been introduced where concerns about professional competence have been identified – for example specific competence and registration requirements in relation to Youth Court advocacy and regulatory guidance for immigration practitioners.
5. In addition, the BSB receives a range of information about competence that influences its regulatory approach at both an individual and thematic level. For example, the Legal Ombudsman shares data about complaints they receive and, through our supervisory approach, we understand how chambers

gathers and acts upon feedback on standards of practice (this will be further enhanced through our CMA work). The CPS publishes annual information on the performance of its prosecutors and we receive information from other regulators about thematic competence issues.

6. There are also external means by which the profession's competence can be both assessed and enhanced. Specialist Bar Associations, the Inns, the Circuits and other professional bodies provide training to their members in support of maintaining standards and in upholding the professionalism that barristers view as integral to their position within the legal system. In addition, there are processes for reviewing the quality of barristers to join specialist panels such as the Treasury Panel or for appointment as a QC.
7. The combination of these provides a proportionate and pragmatic approach to assuring standards of practice of barristers. Evidence gathered through this approach will enable us to establish whether further levels of regulation are needed either across the profession or in particular areas of practice and to assess whether external controls are effective in maintaining standards.

Next steps

8. The BSB will be engaging with all key parties to help ensure that the approach outlined here is effective. We will be developing information sharing arrangements across the legal sector and strengthening our contacts with consumer organisations and training providers. Critical to its success will be the willingness of those within the justice system to share concerns with us so that we can take proportionate action to address any patterns of poor practice. Further, the success of the approach relies upon the profession engaging positively with the regulatory framework that is now in place by ensuring, as a minimum, that they comply with regulatory requirements. This, reduces the need for additional regulatory intervention.
9. If anyone would like more information about the approach, or would like to discuss it further, they should contact the BSB on:
contactus@barstandardsboard.org.uk

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