



The Bar Council



REGULATING BARRISTERS

## **Standing Orders for joint Committees of the General Council of the Bar and the Bar Standards Board**

### **Foreword**

The following Standing Orders are issued under the Authority of Regulations 13 and 14 of Part II the Constitution of the General Council of the Bar.

This fifth edition of the Standing Orders came into effect on 24 July 2020.

## **Introduction**

### **Preamble**

1. The General Council of the Bar (GCB) is an approved regulator for the purposes of the Legal Services Act 2007. The functions and powers of the GCB are set out in its constitution.
2. The GCB has established the Bar Standards Board (“the BSB”) to exercise the regulatory functions of the GCB. The functions and powers of the BSB are set out in its constitution.
3. The GCB has delegated the discharge of its regulatory functions to the BSB in compliance with section 28 of the Legal Services Act 2007. This is in accordance with the overarching duty set out by Rule 1 of the Internal Governance Rules 2019, under which the GCB is required to have in place arrangements which ensure that the exercise of its regulatory functions is not prejudiced by its representative functions. In particular, the GCB must have arrangements in place to separate its regulatory functions from its representative functions and to maintain the independence of its regulatory functions as effectively as is reasonably practicable and consistent with section 28 of the Legal Services Act 2007.
4. These Standing Orders are held jointly by the GCB and the BSB and set out the powers and functions of committees where there is representation by both parties. The powers and functions of the GCB in its representative capacity are set out in the GCB’s Standing Orders. The powers and functions of regulatory committees and groups are set out in the BSB’s Standing Orders.

### **Definitions**

5. In these Standing Orders, unless the context requires otherwise:

“Approved regulator” has the meaning given in section 20(2) of the Legal Services Act 2007.

“The Bar Standards Board” and “BSB” means the part of the General Council of the Bar of England and Wales established in accordance with Section 28 of the Legal Services Act 2007 to independently exercise the regulatory functions of the GCB.

"The Chair of the GCB", and "Vice-Chair of the GCB", shall mean the Chair and Vice-Chair respectively of the GCB elected pursuant to the provisions of the GCB’s Constitution.

“The Chair of the BSB” and “Vice-Chair of the BSB” shall mean those persons appointed to those positions pursuant to the provisions of the Constitution of the Bar Standards Board.

“The Chief Executive” shall mean the person for the time being appointed to such position pursuant to the provision of Regulation 18 of the Constitution of the General Council of the Bar.

“The Director General of the BSB” shall mean the person for the time being appointed to such position pursuant to the provision of Paragraph 14(a) of the Constitution of the Bar Standards Board.

“The Director of Finance” means the member of the staff with day-to-day responsibility for financial matters.

The “General Council of the Bar” and “GCB” means the General Council of the Bar of England and Wales and refers to the legal entity in entirety.

“The General Management Committee” (“GMC”) shall mean the standing committee of the GCB described in Regulation 13(b) of the GCB’s Constitution.

“Internal Governance Rules” means the Internal Governance Rules made by the Legal Services Board.

“Lay person” has the meaning given in paragraph 2(4) of Schedule 1 to the Legal Services Act 2007 and “lay member” has a corresponding meaning.

“Member of the BSB” means a person, whether practising barrister or otherwise, who for the time being holds a seat on the Board of the Bar Standards Board.

“Practising barrister” means a barrister holding a current practising certificate issued in accordance with the Practising Certificate Rules of the Bar Standards Board Handbook.

“Practising Certificate Fee” means the amount payable for a practising certificate each year.

“Regulatory functions” has the meaning given in section 27(1) of the Legal Services Act 2007, and the BSB is responsible for determining any question whether a matter involves the exercise of a regulatory function.

“Representative functions” has the meaning given in section 27(1) of the Legal Services Act 2007.

“Resources Group” means the shared services section of the organisation, supporting the GCB and the Bar Standards Board.

“The Seven Principles of Public Life” means the Seven Principles of Public Life as laid down in the First Report of the Committee on Standards in Public Life and amended by the Committee following its review in January 2013.

"The Treasurer" shall mean the Treasurer of the GCB elected pursuant to the provisions of the GCB Constitution.

Any terms used in the Legal Services Act 2007 have the same meaning as in that Act.

The plural shall include the singular and vice versa.

## **Finance and Resources**

### **General**

6. The purpose of these Standing Orders is to set out the arrangements:
  - a. For ensuring that the GCB's and BSB's finances and other resources are properly managed and accounted for; and
  - b. For ensuring that the GCB complies with its obligations under rule 9 of the Internal Governance Rules 2019, made by the Legal Services Board under Section 30 of the Legal Services Act, to provide such resources to the BSB as are reasonably required for its regulatory functions to be efficiently and effectively discharged. It is for the BSB to determine what resources are sufficient for the efficient and effective discharge of regulatory functions, providing information to the GCB as required by rule 3 of the Internal Governance Rules 2019.
7. The Treasurer and Chief Executive will keep the GCB briefed on all matters of financial importance.
8. The Chief Executive is the accounting officer and responsible for financial planning, the production of accounts, and, day-to-day financial management in respect of the GCB, and the collection of practising certificate fees. The Director General is responsible for financial planning and day-to-day financial management in respect of the BSB.

### **Finance Committee**

9. The terms of reference of the Finance Committee are:
  - a. To keep under review the GCB's procedures for preparing the annual budget, levels and procedures for the authorisation of expenditure, procurement policy and other financial controls;
  - b. To review and finalise the annual revenue and capital expenditure budgets, in consultation with the BSB and GMC as appropriate, for presentation to the GCB (in accordance with Rule 10 of the Internal Governance Rules 2019, the GCB cannot approve or reject the budget from the BSB);

- c. To put forward proposals for the annual practising certificate fee to the GCB, following consultation with the BSB and GMC, in accordance with Section 51 of the Legal Services Act 2007 and the Practising Fee Rules 2009 made by the Legal Services Board. Proposals must take into account the BSB's independent formulation of its own budget, aligned to its priorities and strategy, under Rule 10 of the Internal Governance Rules 2019. In setting the PCF the GCB will comply with the LSB rules;
- d. To review the GCB's and BSB's management accounts and the associate reports provided by the Chief Executive and the BSB Director General and make recommendations, take such actions or seek assurances (in accordance with Rule 3 of the Internal Governance Rule 2019 or otherwise) as may be necessary or desirable in the interests of the GCB as a whole in the light of such accounts;
- e. To review the GCB's cash flow forecast;
- f. To review the GCB's annual accounts prior to their consideration by the Audit Committee and approval by the GCB;
- g. To determine and keep under review the GCB's banking arrangements, including the banking policy;
- h. To keep under review the level and nature of the GCB's investments and borrowings and take all such action in relation thereto as is necessary or desirable in the interests of the GCB;
- i. To provide advice on any financial matters referred to it by the GCB, the BSB or the GMC;
- j. To advise on the standard increase to be applied in the annual performance related salary review, having regard to the recommendations of the GCB and BSB; and
- k. A sub-panel consisting of members referred to in paragraphs 10 (c) and (d) below shall be responsible for setting the remuneration for independent members of the joint Audit and Finance Committees and the independent lay selection group member referred to in paragraph 32(c) below.

10. The membership of the Finance Committee shall be:

- a. A Chair who is an independent lay person with relevant financial knowledge and experience nominated jointly by the Chair of the GCB and the Chair of the BSB acting in accordance with the Seven Principles of Public Life and taking account of best practice for public appointments, including, in particular, the Governance Code on Public Appointments, who shall be deemed independent of both the GCB and BSB on

appointment and who shall be appointed for a term of three years, renewable once. In the case of a tie in any matter put to a Finance Committee vote, the Finance Committee Chair shall have the casting vote;

- b. A Vice-Chair who is an independent lay person with relevant financial knowledge and experience nominated jointly by the Chair of the GCB and the Chair of the BSB acting in accordance with the Seven Principles of Public Life and taking account of best practice for public appointments, including, in particular, the Governance Code on Public Appointments, who shall be deemed independent of both the GCB and BSB on appointment, and who shall be appointed for a term of three years, renewable once;
- c. Two practising barristers nominated by the Chair of the GCB, who shall be appointed for a term of three years, renewable once, one of whom who should normally be the Treasurer;
- d. Two members of the BSB or of a BSB committee nominated by the Chair of the BSB, who shall be appointed for a term of three years, renewable once
- e. The Chief Executive (non-voting member);
- f. The Director General of the BSB (non-voting member);

In attendance: other senior staff as necessary.

- 11. Each of the members of the Finance Committee other than the Chair and Vice-Chair of the Committee, the Chief Executive and the Director General may nominate an alternate who is entitled to take their place at any meeting which the member is unable to attend.
- 12. The quorum for meetings of the Finance Committee shall be 3 members (or alternates), which must include:
  - a. a member (or the alternate of a member) who is either one of the two practising barrister members nominated by the Chair of the GCB identified in paragraph 10(c) above;
  - b. a member (or the alternate of a member) who is one of the members nominated by the Chair of the BSB identified in paragraph 10(d) above; and
  - c. the Chair or Vice-Chair of the Finance Committee.

### **Audit Committee**

- 13. The terms of reference of the Audit Committee are:

## Governance and Risk Management

- a. To advise on the GCB's role as an approved regulator for the purposes of the Legal Services Act 2007 on all corporate governance matters and to review the effectiveness of all internal controls, including financial management arrangements and internal business processes and in so doing to make appropriate use for this purpose of:
  - i. internal audits;
  - ii. external audits; and
  - iii. reports and assurances from the representative, regulatory and Resources Group functions.
- b. To review the risk management arrangements of the representative, regulatory and Resources Group functions, including processes for assessing, reporting, owning and managing risks to the corporate entity and their reputational and financial implications across all parts of the GCB, and to make recommendations and seek assurances or clarification as may be necessary or desirable in the interests of the GCB as a whole;
- c. To receive risk registers at each meeting and seek assurances that effective control systems are in place and are being adhered to from the Director of Finance, Chief Executive of the GCB and the Director General of the BSB;
- d. To review and make arrangements on whistleblowing processes and the arrangements for investigating fraud, corruption and error;
- e. To keep under review the level and nature of the GCB's insurance cover;
- f. To keep under review the GCB's accounting policies; and
- g. To review the findings of the internal and external auditors, if appropriate, and ensure that issues raised in the management letter are addressed by the appropriate GCB staff, and to ensure that issues raised by the Audit Committee are appropriately responded to;

## Internal Audit

- h. To receive assurances from the 'first instance' GCB and BSB panels/committees that the processes in place for internal audit are effective and that any actions raised are addressed;

## External Audit

- i. To make recommendations to the GCB on the appointment and removal of the external auditors;

- j. To oversee the relationship with the external auditors, including:
  - i. there is a retender for an external audit firm at least every five years;
  - ii. that no audit firm is, normally, appointed as an external auditor for longer than 10 years (any extension will require the full approval of the Audit Committee); and
  - iii. ensuring that the external auditors are informed of any significant developments or risks which might impact upon the audit process or fee;
  - iv. that the Audit Committee should approve any non-audit services to the GCB.
- k. To monitor and review the external auditor's independence, objectivity and effectiveness;
- l. To review the findings of the external auditor and ensure that appropriate actions are being taken;
- m. To determine and keep under review policy on the engagement of the external auditor to supply non-audit or consultancy services;
- n. To scrutinise the integrity of the GCB's Annual Report and Accounts and, subject to audit, to recommend them for approval by the GCB; and

#### Statutory Compliance

- o. To review and make recommendations on the processes in place to ensure that the GCB meets its statutory obligations, including those with regard to employment, data protection and health and safety.

#### 14. The membership of the Audit Committee shall be:

- a. A Chair who is an independent lay person with relevant audit knowledge and experience nominated by the Chair of the GCB and the Chair of the BSB acting in accordance with the Seven Principles of Public Life and taking account of best practice for public appointments, including the Governance Code on Public Appointments. In the case of a tie in any matter put to an Audit Committee vote, the Audit Committee Chair shall have the casting vote;
- b. A Vice-Chair (who is preferably, but need not be, a practising barrister) with relevant audit knowledge and experience nominated jointly (in consultation with the Chair of the Audit Committee) by the Chair of the GCB and the Chair of the BSB, and who shall be deemed independent of both the GCB and BSB on appointment, who shall be appointed for a term of three years, renewable once;



- c. A practising barrister nominated by the Chair of the GCB, who shall be appointed for a term of three years, renewable once;
- d. A member nominated by the Chair of the BSB, who shall be appointed for a term of three years, renewable once; and
- e. Two members (who may, but need not, be practising barristers) nominated jointly (in consultation with the Chair of the Audit Committee) by the Chair of the GCB and the Chair of the BSB acting in accordance with the Seven Principles of Public Life and taking account of best practice for public appointments, including the Governance Code on Public Appointments, who shall be deemed independent of both the GCB and the BSB on appointment and who shall be appointed for a term of three years, renewable once.

In attendance: the Chief Executive, the Director General of the BSB, other senior staff as necessary.

- 15. No person who is a member of the Finance Committee may also be (or act as an alternate for) a member of the Audit Committee.
- 16. The members of the Audit Committee identified in paragraph 14(c) and (d) above may nominate an alternate who is entitled to take their place at any meeting which the member is unable to attend, providing that alternate is not also a member of the Finance Committee.
- 17. The quorum for meetings of the Audit Committee shall be 3 members (or alternates).

### **The BSB's financial and other resources**

- 18. The BSB's financial and other resources shall be determined by the BSB as part of its annual budgeting process, in accordance with Rule 10 of the Internal Governance Rules 2019.
- 19. The BSB's financial and other resources shall include, as provided for in the BSB's annual budget:
  - a. Funds to be spent for the BSB's purposes identified in the BSB's annual budget;
  - b. The full-time services of the Director General of the BSB and of other employees managed by the Director General of the BSB;
  - c. A share of shared services, only where, in accordance with Rule 11 of the Internal Governance Rules 2019, the GCB and BSB are in agreement that:

- i. this will not undermine, and could not reasonably be seen to undermine, the separation of regulatory and representative functions;
  - ii. this is effective and appropriate for the BSB to discharge its regulatory functions; and
  - iii. this is necessary to be efficient and reasonably cost effective.
- 20. In relation to the BSB's financial and other resources:
  - a. The GCB shall observe the requirements of Part II(1)(d) of the GCB Constitution (discharge of regulatory functions);
  - b. The BSB shall observe the procedures and requirements contained in or made under these Standing Orders.
- 21. In accordance with Rule 10 of the Internal Governance Rules 2019, the GCB cannot approve or reject the proposed budget from the BSB, though it may seek further information under Rule 3(2)(a) where it has reasonable grounds to do so. In accordance with Rule 3, the BSB must provide sufficient information to the GCB as is reasonably required for the GCB to be assured that the BSB's required resources are necessary and proportionate, and that the BSB has complied with Section 28 of the Legal Services Act 2007 in determining its required resources.

### **Resolution Process**

- 22. Any issues concerning matters within the remit of the Finance Committee or Audit Committee and/or any point arising under or in connection with the Internal Governance Rules 2019:
  - a. shall if possible be resolved by agreement between the Director General of the BSB and the Chief Executive;
  - b. if not so resolved, shall be referred by the Director General of the BSB or the Chief Executive to the Legal Services Board for resolution, in accordance with Rule 14 of the Internal Governance Rules 2019;
  - c. if not so resolved, the BSB and the GCB shall agree to be bound by the opinion of an independent arbitrator.

### **The Chairs' Committee**

- 23. The terms of reference of the Chairs' Committee shall be to keep under review all aspects of the relationship between the GCB and the BSB.
- 24. The Chairs' Committee shall consist of:
  - a. The Chair of the GCB;

- b. The Chair of the BSB;
  - c. The Vice-Chair of the GCB;
  - d. The Vice-Chair of the BSB;
  - e. The Treasurer of the GCB;
  - f. The Chief Executive;
  - g. The Director General of the BSB.
25. Meetings of the Chairs' Committee shall be attended by:
- a. Relevant senior staff;
  - b. Such other person(s) as the Chairs' Committee may invite.
26. In the interests of the preservation of independence, meetings of the Chairs' Committee shall be chaired alternately by the Chair of the GCB (or deputy) and the Chair of the BSB (or deputy). Meetings shall be administrated by the Chief Executive's Office.
27. There shall be a minimum of two meetings of the Chairs' Committee per year.

### **Appointments process for joint GCB and BSB Committees**

28. Non ex-officio members of the joint Finance and Audit Committees are appointed and reappointed on the principles of fairness, transparency and merit.
29. Those members for whom the appointments process applies are:

#### Finance Committee

- The Chair;
- The Vice-Chair;
- Two practising barristers nominated by the Chair of the GCB;
- Two members of the BSB or of a BSB committee nominated by the Chair of the BSB;

#### Audit Committee

- The Chair;
- The Vice-Chair;
- The member nominated by the Chair of the GCB;
- The member nominated by the Chair of the BSB; and

- The two members nominated jointly (in consultation with the Chair of the Audit Committee) by the Chair of the GCB and the Chair of the BSB.
30. Appointments of BSB members to the posts of Finance or Audit Committee members are made by the BSB Chair in consultation with the BSB Vice-Chair and BSB Director General.
  31. Appointments of GCB members to the posts of practising barrister members of the Finance Committee or member of the Audit Committee are made by the Chair of the GCB in consultation with the Vice-Chair and Chief Executive of the GCB.
  32. The posts of Chair of the Finance Committee and Chair of the Audit Committee are advertised to the public. Members are selected on merit by a Selection Group comprising:
    - a. The Chair or Vice-Chair of the GCB;
    - b. The Chair or Vice-Chair of the BSB; and
    - c. A lay person independent of the GCB and the BSB, with knowledge of the Governance Code on Public Appointments, or similar skills and experience in best practice in recruitment to public office. The member shall be appointed by the Chair of the GCB and the Chair of the BSB and shall usually be the Chair of the Selection Group.
  33. The post of Vice-Chair of the Finance Committee is advertised to the public. Members are selected on merit by a Selection Group comprising:
    - a. The Chair or Vice-Chair of the GCB;
    - b. The Chair or Vice-Chair of the BSB; and
    - c. The Chair of the Finance Committee.
  34. The post of Vice-Chair of the Audit Committee, and those of other lay members of the Audit Committee, are advertised to the public. Members are selected on merit by a Selection Group comprising:
    - a. The Chair or Vice-Chair of the GCB;
    - b. The Chair or Vice-Chair of the BSB; and
    - c. The Chair of the Audit Committee.
  34. The members of the selection groups identified in paragraphs 33 and 34 may nominate an alternate who is entitled to take their place on a selection group. However, alternates must be consistent throughout the whole appointment process and may not be employed part-way through.
  35. In the unexpected absence of a member of the selection group, after the selection group has convened, remaining members of the selection group may decide whether the interviews should go ahead without that member.

36. It is important that appointees to any of the joint committees uphold the standards of the “Seven Principles of Public Life” (also known as the “Nolan Principles”) set out in the Committee on Standards in Public Life’s thirteenth report “Standards Matter” and referred to in paragraph 5 of the Standing Orders for joint Committees of the General Council of the Bar of England and Wales and the Bar Standards Board.
37. The appointments and reappointments process will be conducted in accordance with the Equality Act 2010 throughout.
38. As a general rule, all appointments made to non ex-officio posts shall be for a fixed period of up to three years, renewable once, provided that the Chair of the Committee (or Chair of the GCB and Chair of the BSB in the case of the Chair of the Finance Committee and Chair of the Audit Committee posts) is satisfied that the person has performed to the required standard and it is in the interest of both parties to renew the appointment.
39. In exceptional circumstances, it may be appropriate to resolve to offer an extension of an individual person’s or group of persons’ appointment beyond the maximum six year period of appointment permitted above. Any resolution to make a limited offer of extension must:
  - a. allow for an extension of no more than 18 months in duration,
  - b. be made by offer in writing, and
  - c. be made for a specific reason that is articulated in the offer of extension

### **Governance and amendments to the Standing Orders**

40. Any amendments to these Standing Orders must be made in accordance with the Internal Governance Rules 2019.
41. Any party wishing to amend or update any part of the Standing Orders must seek the authority of both the Bar Standards Board and the GCB to do so, via appropriate internal governance processes. The administrative management of any amendments to the text must be affected through the office of the Chief Executive of the GCB.
42. A review of the Standing Orders will be scheduled on an annual basis at a meeting of the GCB and Bar Standards Board and senior leadership team (SLT) (which includes Resources Group Directors), in accordance with Rule 1(3) of the Internal Governance Rules 2019, to assess whether any amendments may be required by any party.

## Annex A

### Seven Principles of Public Life<sup>1</sup>

1. **Selflessness**  
Holders of public office should act solely in terms of the public interest.
2. **Integrity**  
Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
3. **Objectivity**  
Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
4. **Accountability**  
Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
5. **Openness**  
Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
6. **Honesty**  
Holders of public office should be truthful.
7. **Leadership**  
Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

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<sup>1</sup> As amended by the Committee on Standards in Public Life following its review in January 2013: [Standards matter - A review of best practice in promoting good behaviour in public life](#).