

## Amendments to the Bar Standards Board Handbook – Transparency Rules

### For approval by the Legal Services Board

This application is made in accordance with the requirements set out in the Legal Services Board's Rules for Rule Change applications. The BSB wishes to provide the information below to support its application.

Any queries about this application should be made to:

#### Joseph Bailey

Senior Policy Officer

Bar Standards Board

289-293 High Holborn

London

WC1V 7HZ

Tel: 0207 6114 687

[jbaily@barstandardsboard.org.uk](mailto:jbaily@barstandardsboard.org.uk)

## 1 Background

- 1.1 The Competition and Markets Authority (CMA) undertook a market study into legal services in 2016, and its [final report](#) was published on 15 December 2016. Its recommendations for the legal services regulators fall broadly into four categories: delivering a step change in standards of transparency, promotion of the use of independent feedback platforms, making regulatory data more accessible, and making better information available to assist consumers (including by reviewing the content of the Legal Choices website). The overall aim is to improve consumer understanding, facilitate “shopping around” and ultimately drive competition.
- 1.2 In its final report, the CMA recommended that the regulators deliver a step change in standards of transparency to *“help consumers (i) to understand the price and service they will receive, what redress is available and the regulatory status of their provider and (ii) to compare providers. Regulators should revise their regulatory requirements to set a new minimum standard for disclosures on price and the service provided and develop and disseminate best practice guidance. Importantly, this should include a requirement for providers to publish relevant information about the prices consumers*

are likely to pay for legal services”.<sup>1</sup> In line with the CMA’s recommendation, the BSB therefore proposed to include price and service transparency rules in the BSB Handbook for the first time, and to include additional redress transparency rules.

- 1.3 The report also stated that *“in the case of barristers, increased public transparency will be most relevant and beneficial to customers engaging a barrister through the public access scheme rather than issuing instructions via a solicitor. However, we note that the solicitors’ role as intermediaries instructing barristers on behalf of clients will be strengthened if there is a general improvement in the level of transparency in the sector”*.<sup>2</sup>
- 1.4 Following a policy consultation on transparency standards issued in October 2017 (**Annex C**), the BSB published our proposed approach to improving transparency for consumers of barristers’ services in February 2018 (**Annex D**). This recognised that, with regard to the type of bespoke referral services most often provided by barristers, necessarily heavily caveated information may not be useful for consumers of these services and may cause confusion. We also recognised that, compared to other legal services providers who instruct barristers, lay clients are in a weaker position to negotiate fees and understand the kind of service they should be able to expect from a barrister. Our view, therefore, is that price and service transparency requirements are most likely to increase consumer understanding and “shopping around” in the context of the Public Access Bar. However, we also considered that many Public Access services are bespoke and, again, the risk that necessarily heavily caveated information may not be useful and may cause confusion for consumers of these services. In developing price and service transparency requirements, we therefore agreed to prioritise the less bespoke services provided by Public Access barristers. We also hope that this will encourage improved price and service transparency, where appropriate, for other Public Access services.
- 1.5 However, the BSB agrees with the CMA that solicitors’ roles as intermediaries, instructing barristers on behalf of clients, will be strengthened if there is a general improvement in the level of transparency in the sector. We also consider it important that all barristers should be required to meet minimum transparency standards in

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<sup>1</sup> <https://assets.publishing.service.gov.uk/media/5887374d40f0b6593700001a/legal-services-market-study-final-report.pdf>, page 15

<sup>2</sup> <https://assets.publishing.service.gov.uk/media/5887374d40f0b6593700001a/legal-services-market-study-final-report.pdf>, page 281

relation to price and service. As part of our proposed approach, we therefore decided to require all chambers' websites to state that professional, licensed access and/or lay clients (as appropriate) may contact chambers to obtain a quotation for legal services. In our view, this demonstrates a commitment to transparency and facilitating “shopping around” without either risking consumer confusion or overburdening barristers and chambers.

## **2 The proposed rules**

2.1 We are proposing to introduce price, service and additional redress transparency rules in the BSB Handbook. The proposed rules are set out in detail at **Annex A**, and the rationale for the requirements is explained in section 4.

2.2 The transparency rules will apply to self-employed barristers, chambers and BSB entities. The following key transparency requirements are proposed:

### Rules on price and service transparency for all

2.3 By “all”, we mean all self-employed barristers, chambers and BSB entities. They will need to state on their websites:

- That professional, licensed access and/or lay clients (as appropriate) may contact them to obtain a quotation for legal services. Websites will also need to provide contact details;
- Their most commonly used pricing models for legal services, such as fixed fee or hourly rate;
- The areas of law in which they most commonly provide legal services;
- A description of the legal services which they most commonly provide; and
- Information about the factors which might influence the timescales of their most commonly provided legal services.

2.4 The required information will also need to be readily available in alternative format (for example, in the form of a ‘fact sheet’), and provided to consumers on request.

### Rules on redress transparency for all

- 2.5 By “all”, we mean all self-employed barristers, chambers and BSB entities. They will need to state on their websites:
- The text “regulated by the Bar Standards Board”. This will need to be displayed on website homepages;
  - Information about their complaints procedures, any right to complain to the Legal Ombudsman (LeO), how to complain to the LeO and any time limits for making a complaint;
  - A link to the [decision data](#) on the LeO’s website, allowing consumers to see which providers received an ombudsman’s decision in the previous twelve-month period; and
  - A link to the [Barristers’ Register](#) on the BSB’s website, allowing consumers to see whether a barrister (1) has a current practising certificate and (2) has any disciplinary findings.
- 2.6 The required information will also need to be readily available in alternative format, and provided to consumers on request. In addition, the text “regulated by the Bar Standards Board” will need to be stated on all e-mail and letterheads.

### Additional rules on price and service transparency for those undertaking Public Access work

- 2.7 On their websites, those undertaking Public Access work will need to display a link to the [Public Access Guidance for Lay Clients](#) on the BSB’s website.
- 2.8 If they provide the Public Access services listed in the BSB’s price transparency policy statement (**Annex B**) then, in certain circumstances (listed at paragraph 15 of the policy statement), their websites will also need to state the following in relation to those services:
- Their pricing model(s), such as fixed fee or hourly rate;
  - Their indicative fees and the circumstances in which they may vary. For example, a fixed fee and the circumstances in which additional fees may be charged, or an hourly rate by seniority of barrister;

- Whether their fees include VAT (where applicable); and
- Likely additional costs.

2.9 This will need to be done:

- By a sole practitioner, in relation to them as an individual barrister;
- By a BSB entity, in relation to the entity; and
- By a chambers, either in relation to (1) individual barristers, or (2) barristers in chambers in the form of ranges or average fees.

2.10 Websites will also need to state a description of the legal services (including a concise statement of the key stages), and an indicative timescale for the key stages. The Public Access services for which, in certain circumstances, this information will need to be provided are as follows:

- Employment Tribunal cases (advice and representation for employers and employees);
- Financial disputes arising out of divorce;
- Immigration appeals (First-tier Tribunal);
- Inheritance Act advices;
- Licensing applications in relation to business premises;
- Personal injury claims;
- Summary only motoring offences (advice and representation for defendants); and
- Winding-up petitions.

2.11 In addition, the required information will need to be readily available in alternative format, and provided to consumers on request.

### **3 Our evidence for the requirements**

3.1 In addition to the evidence base in the CMA's final report, we have undertaken desk research, operated a pilot scheme to test the proposed transparency requirements and commissioned further consumer testing.

### Desk research

3.2 While the BSB Handbook does not prevent price transparency before barristers are instructed, the BSB had limited information on the extent to which this was occurring in practice. As a first step to better understanding the current position, we undertook desk research in summer 2017 examining the information which barristers' chambers provide on their websites regarding price. We looked at 368 chambers in total, 329 of which had websites. The research classified these into four categories:

- Chambers which provide numerical data regarding their fees/prices (20/329, **6%**);
- Chambers which provide detailed guidance about how fees are typically calculated, but do not provide any numerical data on fees/prices (26/329, **8%**);
- Chambers which provide simple or basic reference to fees, with no numerical data or detailed guidance about how fees are typically calculated (36/329, **11%**); and
- Chambers which made no reference whatsoever to their fees and no guidance to this effect (247/329, **75%**).

3.3 Of the 6% that did provide numerical data a handful provided rates by level of seniority. Of the 8% of chambers that provide detailed guidance about how fees are typically calculated, only one provided examples of costs for a standard type of instructions. The BSB therefore recognises that while introducing price transparency requirements will lead to improvements for consumers, it will likely represent a significant culture shift for the Bar.

### Pilot scheme

3.4 Between November 2017 and February 2018, the BSB operated a pilot scheme to test the proposed transparency requirements with nine chambers, entities and sole practitioners. The key findings were as follows:

- The implementation of the proposed transparency requirements was perceived as relatively straightforward by participants;
- According to the participants, none of their initial concerns regarding price transparency materialised during the pilot;

- While it was too early to objectively observe any impacts of the pilot on the participants' business, a few positive experiences were observed (which may not have been directly attributable to the pilot) and no negative effects were reported;
- In terms of positive outcomes, one participant reported that their client conversion had almost doubled over the duration of the pilot. Another participant who had started to display prices in January 2016 observed their largest turnover increase since, and a significant decline in late payments with the average number of days for payments decreasing by half;
- Participants, mostly their clerking teams, reported receiving fewer basic queries from potential consumers on price and service information;
- Participants considered that increased transparency may help to address the public's perception that barristers are expensive and difficult to access, and provide more certainty to clients on what they are ultimately going to be charged; and
- Most participants indicated that they plan to keep the transparency requirements in place after the pilot.

3.5 The BSB also carried out an online survey of the pilot participants' clients. The key findings were as follows:

- Respondents were satisfied with the level of information provided by the pilot participants;
- Lay client respondents needed more price and service information than solicitor respondents;
- Lay client respondents were more inclined to "shop around" and review website information than solicitor respondents;
- Price information provided by the pilot participants was easy to find, useful and understandable, even though further queries were still needed; and
- Service information provided by the pilot participants was easy to find, useful and understandable, and further queries on service were less frequent than for price information.

3.6 Further information is available in the evaluation of the BSB's transparency pilot (**Annex E**).

## Consumer testing

3.7 The BSB also commissioned YouGov and London Economics to undertake price transparency research, which combined online focus groups and an online behavioural experiment. The main objective of the study was to test different approaches to presenting price and service information, and how they impact consumers’:

- Understanding of the choices available;
- Ability to identify cheaper, or preferred, options; and
- Confidence in making a decision.

3.8 The study also sought to answer the following research questions:

- How do consumers make decisions in relation to choosing barristers’ services?
- How are consumers’ decisions affected by the way that price and/or service information is presented by barristers?
- How are decisions affected by different pricing or service models offered by barristers?

3.9 The key findings of the study were as follows:

- Consumers value having readily accessible information on prices and services, which they can use when comparing between barristers;
- It would help consumers to receive estimates regarding costs and timescales of work, in order to help them understand the information on quote elements, and compare between barristers;
- Consumers prefer information on hourly fees and likely time taken to complete the work in tabular form (albeit less bespoke legal services are more often undertaken on a fixed fee basis). Consumers also find text-based pricing and service models less transparent and easy to understand;
- It is important to carefully consider and select which information to present upfront to consumers; and
- There is a general need to inform and educate legal services users, and those who use barristers specifically, about the implications of regulation and how consumers are protected.



- 3.10 Further information is available in the summary, full report and technical annex to the research (**Annexes F – H**).

#### **4 Why we wish to introduce the requirements**

##### Rules on price and service transparency for all

- 4.1 Requiring “each” website of self-employed barristers, chambers and BSB entities to display price and service information (**Rule C159**) reflects the fact that many barristers operate multiple websites as part of their practice. For example, a self-employed barrister may practise from chambers but operate a separate website for their Public Access practice, or a self-employed barrister may practise as a sole practitioner and also work for a BSB entity. If barristers practise in these ways, they will need to comply with the transparency rules on each website as appropriate.
- 4.2 Those regulated by the BSB will need to state on their websites that professional, licensed access and/or lay clients (as appropriate) may contact them to obtain a quotation for legal services (**Rule C159.1**). Websites will also need to provide contact details. This will ensure consumers are aware that they can contact barristers to obtain quotations, and know how to do so. If a chambers does not have any self-employed barristers undertaking Public Access work, it will be best practice for its website to state that lay clients may not contact them directly to obtain quotations, as solicitors will do this. However, this will not be a requirement as Rule C159.1 would already require the chambers to state on their website that solicitors may contact them to obtain a quotation.
- 4.3 The BSB recognises that, if it required the publication of price information upfront in relation to the type of bespoke referral services most often provided by barristers, this may not be useful and may cause confusion for consumers of those services. Our proposal for websites to state that professional, licensed access, and/or lay clients (as appropriate) may contact barristers to obtain quotations therefore demonstrates commitment to increased transparency and facilitating “shopping around”, but without either risking consumer confusion or overburdening barristers and chambers. If sufficient information has been provided by the client, and the barrister, barristers in chambers or BSB entity would be willing to provide the legal services, quotations will need to be provided. This will need to be done within a reasonable time period, and

in clear and readily understandable terms. The test for “sufficient information being provided” is whether the consumer has provided sufficient information such that the barrister can quote a meaningful range for the legal services in question. A “reasonable time period” will normally mean within 14 days, although depending on consumer need/urgency quotations may need to be provided sooner.

- 4.4 Requiring those regulated by the BSB to state their most commonly used pricing models for legal services such as fixed fee or hourly rate (**Rule C159.2**) will ensure consumers are aware of the different pricing models that are available. Where different models are typically used for different legal services, this will need to be explained on websites to ensure that consumers understand this.
- 4.5 Those regulated by the BSB will also be required to state the areas of law in which they most commonly provide legal services, and state and describe the legal services which they most commonly provide (**Rule C159.3**). This will need to be done in a way which allows consumers viewing websites to sufficiently understand the expertise of the barrister, chambers or BSB entity. It will also ensure that consumers have a working knowledge of their most commonly provided legal services. The BSB recognises that the Bar will already be providing much of this information about their services on their websites.
- 4.6 Finally, websites of those regulated by the BSB will need to provide information about the factors which might influence the timescales of their most commonly provided legal services (**Rule C159.4**). These factors might include barristers’ availability, the complexity of a case, the approach taken by the other side and court waiting times. This will help consumers to understand what they can expect from a case and from their barrister, and manage those expectations. However, the BSB recognises that the information will be indicative only and, in many cases, specific to practice area. We are therefore not proposing that websites must provide standardised information about the factors which might influence the timescales of barristers’ most commonly provided legal services. Instead, barristers will need to provide this information in a way which is relevant to their practice.
- 4.7 Participants in the BSB’s pilot scheme perceived the implementation of the proposed transparency requirements as relatively straightforward. Participants, mostly their clerking teams, also reported receiving fewer basic queries from potential consumers on price and service information. This reflects the online survey of the pilot

participants' clients, which found that they were satisfied with the level of information provided by the participants.

- 4.8 Those regulated by the BSB will need to review their website content at least annually (**Rule C160**). They will need to ensure that it is accurate and complies with the transparency requirements in Rule C103 (redress transparency), Rule C159 (price and service transparency for all) and, where applicable, Rules C164 – C168 (price and service transparency for those undertaking Public Access work). Checklists to help with these reviews can be found in the BSB's Transparency Standards Guidance. (This was published in draft alongside the BSB's rules consultation on transparency standards, issued in September 2018 (**Annex I**)). It is recommended that copies of checklists are kept. This will allow those regulated by the BSB to demonstrate to us that they have sought to comply with the transparency requirements, and reviewed their website content at least annually. Those regulated by the BSB may need to demonstrate compliance with the transparency requirements via spot-checks, the new regulatory return (from January 2020) or in the course of other supervision (for example, supervision visits).
- 4.9 Those regulated by the BSB will also need to comply with Rules C103, C159 and, where applicable, Rules C164 – C168 by ensuring the required information is readily available in alternative format (**Rule C161**). This must be provided on request; for example, if they do not operate a website, or a client or prospective client does not have Internet access. This will ensure that all consumers are able to benefit from increased price, service and redress transparency. Those regulated by the BSB can provide information in alternative format in the form of a 'fact sheet'. An example of a fact sheet can be found in the BSB's Transparency Standards Guidance. Those regulated by the BSB will also have a duty to make reasonable adjustments under the Equality Act 2010, and may therefore be required to provide information in alternative format as well as in the form of a 'fact sheet'. This will be clarified in the BSB's Transparency Standards Guidance.
- 4.10 For research, supervision, and enforcement purposes, those regulated by the BSB will need to notify us of their website address(es) offering legal services, and any changes, within 28 days "of the creation or change of the same" (**Rule C162**). However, in the first instance self-employed barristers will need to tell us their chambers' website address(es) during the Authorisation to Practise process for 2019-20, which will take place in February – March 2019. The process is completed using

the [MyBar](#) portal. BSB entities will also need to tell us their website addresses during the entity renewal process for 2019-2020, which will take place in February – March 2019 (under Rule C64 in the BSB Handbook, those regulated by the BSB must promptly provide the BSB with information it may require for the purpose of its regulatory functions).

#### Transparency Standards Guidance

- 4.11 When offering their services to clients and potential clients, those regulated by the BSB will also need to have regard to BSB guidance in relation to price and service transparency (**Rule C163**). As the YouGov and London Economics study found, it is important to carefully consider and select which information to present upfront to consumers. The BSB's Transparency Standards Guidance (which was published in draft alongside the BSB's rules consultation on transparency standards) therefore aims to (1) support those regulated by the BSB in complying with the mandatory rules and (2) encourage them to go beyond the mandatory rules. There are four main sections to the guidance:
- Section 1: mandatory rules on price, service and redress transparency for everyone (all self-employed barristers, chambers and BSB entities, but not employed barristers);
  - Section 2: additional transparency rules for those undertaking Public Access work (self-employed barristers undertaking Public Access work, and BSB entities supplying legal services directly to the public);
  - Section 3: additional best practice on transparency for everyone (which goes beyond the mandatory rules); and
  - Section 4: checklists to help compliance with the transparency rules, and information about the BSB's supervision and enforcement strategy.
- 4.12 The final version of the BSB's Transparency Standards Guidance will be published in May 2019 when the transparency rules come into force (if approved by the LSB following our application).

## Rules on redress transparency for all

- 4.13 Requiring those regulated by the BSB to ensure that consumers are aware of this **(Rule C103.1)** will give consumers confidence. As research commissioned by the Legal Services Consumer Panel demonstrates, consumers prefer using regulated providers.<sup>3</sup> The YouGov and London Economics study also found that there is a general need to inform and educate legal services users, and those who use barristers specifically, about the implications of regulation and how consumers are protected. The appropriate “regulated by the Bar Standards Board” text will therefore need to be displayed on website homepages as a minimum.
- 4.14 Other redress information required by the transparency rules will need to be displayed “in a sufficiently accessible and prominent place” **(Rule C103.2)**. This means that in most cases, the required information should either be on the website’s homepage, or one or two clicks away from the homepage (one way to achieve this is to have a ‘quick links’ page). The information should also be in a font size that enables it to be easily read. This will ensure the information is easy for consumers to find and read.
- 4.15 The websites of chambers and BSB entities are already required to display information about their complaints procedures. This is being extended to require the display of information about any right to complain to the LeO, how to complain to the LeO and any time limits for making a complaint **(Rule C103.2.a)**. This will ensure that consumers know about the LeO and how to complain to them. The CMA’s final report found that legal services providers often do not provide clear information on their complaints procedures, including information about the LeO.<sup>4</sup>
- 4.16 Requiring websites to display a link to the [decision data](#) on the LeO’s website **(Rule C103.2.b)** will allow consumers to see which providers received an ombudsman’s decision in the previous twelve-month period. In each case, the data shows whether the LeO required the provider to give the consumer a remedy. Linking to the [Barristers’ Register](#) on the BSB’s website **(Rule C103.2.c)** will allow consumers to see whether a barrister (1) has a current practising certificate and (2) has any

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[http://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/Vanilla%20Research%20Risk%20and%20Regulation%20final.pdf](http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/Vanilla%20Research%20Risk%20and%20Regulation%20final.pdf), page 3

<sup>4</sup> <https://assets.publishing.service.gov.uk/media/5887374d40f0b6593700001a/legal-services-market-study-final-report.pdf>, page 72

disciplinary findings, which are published on the Barristers' Register in accordance with our [policy](#). Linking to these pages will help consumers to make informed decisions about whom to instruct.

- 4.17 Those regulated by the BSB will also be required to ensure that those they are corresponding with are aware of this (**Rule C103.3**). This will provide reassurance to consumers, as they will know that the Bar is a properly regulated profession. Others will also be able to find information about the BSB and our regulatory standards. The appropriate "regulated by the Bar Standards Board" text will therefore need to be stated on all e-mail and letterheads.
- 4.18 Finally, those regulated by the BSB will need to have regard to BSB guidance in relation to redress transparency (**Rule C103.4**). The BSB's Transparency Standards Guidance (which was published in draft alongside the BSB's rules consultation on transparency standards) aims to (1) support those regulated by the BSB in complying with the mandatory rules and (2) encourage them to go beyond the mandatory rules. The guidance includes additional best practice on transparency to help them to do that. The final version of the BSB's Transparency Standards Guidance will be published in May 2019 when the transparency rules come into force.

Additional rules on price and service transparency for those undertaking Public Access work

- 4.19 Each website of self-employed barristers undertaking Public Access work and/or their chambers, and BSB entities supplying legal services directly to the public, will need to display a link to the [Public Access Guidance for Lay Clients](#) on the BSB's website (**Rule C164**). This will help members of the public to understand how the Public Access scheme works, and explain how they can use it to instruct barristers directly.
- 4.20 Those undertaking Public Access work will also need to comply with the BSB's price transparency policy statement (**Annex B**) insofar as it applies to them (**Rule C165**). Those undertaking Public Access work may be required by the statement to provide additional price and service information in relation to certain Public Access services, but only in specific circumstances. The statement sets out the application and scope of these additional requirements, and the rationale for them. In summary:

- The CMA prioritised Public Access barristers as having the greatest potential impact on transparency rather than the referral Bar. This is because the main focus is on difficulties that consumers and small businesses face in “shopping around”, such as a lack of information about price. The BSB also operated a pilot scheme to test proposed transparency requirements, and carried out an online survey of the pilot participants’ clients. This found that lay client respondents needed more price and service information, and were more inclined to “shop around” and review website information, than solicitor respondents. The YouGov and London Economics study also found that consumers value having readily accessible information on prices and services, which they can use when comparing between barristers;
- In applying a requirement to publish information about the prices consumers are likely to pay for legal services, we have prioritised the less bespoke services provided by Public Access barristers. It would not be proportionate to apply a requirement to publish information about prices to all Public Access barristers, including where they provide bespoke services via Public Access; and
- In order to determine which (less bespoke) Public Access services should be subject to these price transparency requirements, the BSB has developed a set of criteria.

4.21 The following factors would indicate that a Public Access service should be subject to price transparency requirements:

- The service is most commonly purchased by less experienced and less expert consumers;
- The service is offered in a practice area with more vulnerable clients;
- Consumers would likely benefit from an information remedy in the form of price transparency; and
- Transparency would promote competition and allow consumers to compare barristers’ prices for the service with those of solicitors and other legal providers. The BSB’s policy objective is to align with the approaches of the Solicitors Regulation Authority (SRA) and the other legal services regulators where appropriate.

4.22 However, a Public Access service would not need to meet all of these criteria in order to be subject to price transparency requirements. No one criterion is considered more important than another and so in applying the criteria, the BSB has taken a holistic approach with the policy objective of having the greatest impact on the legal services market.

4.23 By applying the criteria above in this way, the BSB has determined that the following Public Access services will be subject to price transparency requirements. For each of these Public Access services, the specific circumstances in which price transparency requirements apply can be found at **Annex A** (the Public Access services are not listed in the rules themselves, which means that the BSB will have the necessarily flexibility to amend the list of Public Access services to which additional price transparency requirements apply). For each of the following Public Access services, an example of the required transparency can also be found in the BSB's Transparency Standards Guidance (which was published in draft alongside the BSB's rules consultation on transparency standards):

- Employment Tribunal cases (advice and representation for employers and employees)
- Financial disputes arising out of divorce
- Immigration appeals (First-tier Tribunal)
- Inheritance Act advices
- Licensing applications in relation to business premises
- Personal injury claims
- Summary only motoring offences (advice and representation for defendants)
- Winding-up petitions

4.24 It will be important for those undertaking Public Access work to have regard to the specific circumstances in which price transparency requirements apply, and the examples. The final version of the BSB's Transparency Standards Guidance will be published in May 2019 when the transparency rules come into force, with final versions of the examples.

4.25 As above, those undertaking Public Access work may be required by the BSB's price transparency policy statement to provide additional price information in relation to certain Public Access services, but only in specific circumstances. In those circumstances, they will need to state the following on their websites:

- Their pricing model(s), such as fixed fee or hourly rate (**Rule C166.1**). This will ensure that consumers are aware of the pricing model(s) which those undertaking Public Access work use for the service in question;



- Their indicative fees for the service and the circumstances in which they may vary **(Rule C166.2)**. For example, a fixed fee and the circumstances in which additional fees may be charged, or an hourly rate by seniority of barrister. Fees may also vary depending on where barristers are located (say a regional annex of chambers), or the client's needs – fees may be higher if the client has a more complex case and/or needs a more experienced barrister. This information will help consumers to “shop around” for the service. The BSB recognises that fees will be indicative only (as there will be a number of factors which affect the actual fees), and this should be stated on websites. For example, *“all information is correct as of X, but fees are estimates only. For the most accurate fee estimate, please contact the clerks”*;
- Whether their fees include VAT, where applicable **(Rule C166.3)**; and
- State likely additional costs (for example, court fees), what they cover and either the cost or, if this can only be estimated, the typical range of costs **(Rule C166.4)**. This information will help consumers to budget, and understand what indicative fees do and do not cover.

4.26 Participants in the BSB's pilot scheme considered that increased transparency may help to address the public's perception that barristers are expensive and difficult to access, and provide more certainty to clients about what they are ultimately going to be charged. Those undertaking Public Access work will need to comply with Rule C166 as follows:

- A sole practitioner will need to provide price information in relation to them as an individual barrister **(Rule C167.1)**;
- A BSB entity will need to provide price information in relation to the entity **(Rule C167.2)**; and
- A chambers will need to provide price information either in relation to (1) individual barristers, or (2) barristers in chambers in the form of ranges or average fees **(Rule C167.3)**.

4.27 Sole practitioners and BSB entities are single economic units. A sole practitioner will therefore need to provide price information in relation to themselves as an individual barrister, and a BSB entity will need to provide price information in relation to the entity. However, chambers are made up of individual self-employed barristers and are not single economic units. They can therefore provide price information either in relation to (1) individual barristers, or (2) barristers in chambers in the form of ranges

or average fees. If chambers provide price information in relation to the latter, they can do so on the basis of all barristers in chambers, by seniority of barrister or by annex of chambers. They should consider which type of price information would be most useful for their clients.

- 4.28 In any event, those regulated by the BSB will need to ensure that self-employed barristers in chambers remain able to compete with each other. This means that chambers must not set fees as a standard offering, and barristers must not coordinate with each other to keep prices at a certain level, agree to charge the same prices or put mechanisms in place for setting prices. Doing so could risk breaching competition law. Further guidance on this can be found in the BSB's Transparency Standards Guidance (which was published in draft alongside the BSB's rules consultation on transparency standards).
- 4.29 Those undertaking Public Access work may also be required by the BSB's price transparency policy statement to provide additional service information in relation to certain Public Access services, but only in specific circumstances. In those circumstances, they will need to include the following on their websites:
- A statement and description of the service in question (**Rule C168.1**). The description will need to include a concise statement of the key stages, and be written in a way which allows consumers viewing websites to sufficiently understand the service of the sole practitioner, barristers in chambers or BSB entity; and
  - An indicative timescale for the key stages of the service in question (**Rule C168.2**). This will help consumers to understand what they can expect from a case and from their barrister, and manage those expectations. The BSB recognises that timescales will be indicative only. The YouGov and London Economics study found that it would help consumers to receive estimates regarding timescales of work, in order to help them understand the information on quote elements, and compare between barristers. For each of the Public Access services subject to additional transparency requirements, an example of the required transparency can be found in the BSB's Transparency Standards Guidance (which was published in draft alongside the BSB's rules consultation on transparency standards). The final version of the BSB's Transparency Standards Guidance will be published in May 2019 when the transparency rules come into force, with final versions of the examples.

4.30 Finally, the BSB recognises at **Rule C169** that those undertaking Public Access work may not currently be providing the services subject to additional transparency requirements, but may be asked to accept instructions to do so at short notice. In these circumstances, those undertaking Public Access work will not need to comply with the additional transparency requirements (Rules C166 – C168) before accepting instructions. However, they will need to do so as soon as reasonably practicable after accepting instructions. This will ensure that, for those returning from maternity or similar leave, the transparency requirements will not be a barrier to restarting their practice.

## 5 The regulatory objectives

### Rules on price and service transparency for all

#### *Overall*

5.1 Taken together, the rules on price and service transparency for all are intended to protect and promote the public interest and the interests of consumers, improve access to justice, increase public understanding of the citizen’s legal rights and duties and, crucially, promote competition in the provision of legal services.

#### *Promoting competition in the provision of legal services*

5.2 The requirement for all chambers’ websites to state that appropriate clients may contact chambers to obtain a quotation will be key to furthering this regulatory objective. For many people legal services are an infrequent and/or distress purchase (a purchase made following an event or situation which may have harmed a consumer or placed them under significant distress such as an accident or divorce). It is difficult for inexperienced, often vulnerable, consumers to know who to turn to for advice and/or representation. This can worsen any legal problems they face<sup>5</sup> and affect their willingness to engage with legal services in the first place.<sup>6</sup> However, the requirement will improve transparency and encourage consumers to research their options, “shopping around” by comparing providers.

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<sup>5</sup> Denvir et al. (2013) *When legal rights are not a reality: do individuals know their rights and how can we tell?*, The Journal of Social Welfare and Family Law, 35:1, 139-160

<sup>6</sup> Legal Services Board (2012) *Understanding consumer needs from legal information sources*

*Improving access to justice, and increasing public understanding of the citizen's legal rights and duties*

- 5.3 The requirement also has the potential to improve access to justice and increase public understanding of the citizen's legal rights and duties by encouraging consumers to seek affordable advice and/or representation from barristers, where they may have otherwise assumed that this was unaffordable and therefore elected not to seek legal remedies.

*Protecting and promoting the public interest and the interests of consumers*

- 5.4 In addition, the urgent and stressful nature of many legal problems means that consumers may find it difficult to research their options in an objective and thorough manner. This can increase the imbalance in knowledge and understanding of the law between a provider and their client. The additional information remedies which the rules of price and service transparency for all will require barristers to provide are intended to address this imbalance. Websites will need to state barristers' most commonly used pricing models, the areas of law in which they most commonly provide legal services, a description of the services which they most commonly provide, and information about the factors which might influence the timescales of their most commonly provided legal services. These measures are firmly in the public interest and the interests of consumers, as they will (i) allow consumers viewing websites to sufficiently understand the expertise of barristers, (ii) ensure that consumers have a working knowledge of their most commonly provided legal services, and (iii) help consumers to understand what they can expect from a case and from their barrister, and manage those expectations. These measures also have the potential to help improve access to justice by reducing the barriers which information asymmetries can present to accessing legal services.
- 5.5 Those regulated by the BSB will also need to ensure that the information required by the rules on price and service transparency for all is readily available in alternative format (for example, in the form of a 'fact sheet'). This will need to be provided on request; for example, if barristers do not operate a website, or a client or prospective client does not have Internet access. This will ensure that all consumers are able to benefit from increased transparency in the ways outlined above.

*Other regulatory objectives*

- 5.6 It is not anticipated that the rules on price and service transparency for all will have an adverse impact on the constitutional principle of the rule of law, adherence to the professional principles or an independent, strong, diverse and effective legal profession. In relation to the latter, the proposals have been equality impact assessed at each stage of the policy development process and the most recent EIA was published as part of the rules consultation on transparency standards (**Annex I**). We did not have evidence to suggest that the rules on price and service transparency for all will have any adverse impact on the basis of any of the protected characteristics in the Equality Act 2010.

Rules on redress transparency for all

*Protecting and promoting the public interest and the interests of consumers, and promoting and maintaining adherence to the professional principles*

- 5.7 The rules on redress transparency for all are intended to protect and promote the public interest and the interests of consumers, and promote and maintain adherence to the professional principles (specifically, that authorised persons should act with integrity, maintain proper standards of work and act in the best interests of their clients). The measures will inform and educate legal services users, and those who use barristers specifically, about the implications of regulation and how consumers are protected (including the role of the LeO and how to complain to them). This is firmly in the public interest and the interests of consumers. The requirements for websites to display links to the decision data on the LeO's website, and the Barristers' Register on the BSB's website, will also help consumers to make informed decisions about whom to instruct and act as an additional deterrent against poor practice. In turn, this will help to promote and maintain adherence to the professional principles among barristers – specifically, that they should act with integrity, maintain proper standards of work and act in the best interests of their clients.

*Other regulatory objectives*

- 5.8 It is not anticipated that the rules on redress transparency for all will have an adverse impact on the constitutional principle of the rule of law, access to justice, public understanding of the citizen's legal rights and duties, competition in the provision of

legal services or an independent, strong, diverse and effective legal profession. In relation to the latter, the proposals have been equality impact assessed at each stage of the policy development process and the most recent EIA was published as part of the rules consultation on transparency standards (**Annex I**). We did not have evidence to suggest that the rules on redress transparency for all will have any adverse impact on the basis of any of the protected characteristics in the Equality Act 2010.

Additional rules on price and service transparency for those undertaking Public Access work

*Overall*

- 5.9 Taken together, the additional rules on price and service transparency for those undertaking Public Access work are intended to protect and promote the public interest and the interests of consumers, improve access to justice, increase public understanding of the citizen's legal rights and duties and, crucially, promote competition in the provision of legal services.

*Protecting and promoting the public interest and the interests of consumers*

- 5.10 The requirement to display a link to the [Public Access Guidance for Lay Clients](#) on the BSB's website will help members of the public to understand how the Public Access scheme works, and explain how they can use it to instruct barristers directly, which is firmly in the public interest and the interests of consumers.

*Promoting competition in the provision of legal services*

- 5.11 In certain circumstances, those undertaking Public Access work will also be required to provide the additional price and service information above in relation to certain Public Access services. The requirements will improve transparency and encourage consumers to research their options, "shopping around" by comparing providers. The Public Access services for which, in certain circumstances, this information will need to be provided are those less bespoke services most commonly purchased by less experienced and less expert consumers. This will maximise the extent to which price and service information can be compared by consumers and therefore best promote competition in the provision of legal services.

- 5.12 The requirements also promote competition in the provision of legal services by setting out that, as chambers are made up of individual self-employed barristers and are not single economic units, they must provide price information either in relation to (1) individual barristers, or (2) barristers in chambers in the form of ranges or average fees. In turn, this means that chambers must not set fees as a standard offering, and barristers must not co-ordinate with each other to keep prices at a certain level, agree to charge the same prices, or put mechanisms in place for setting prices. Doing so could risk breaching competition law.

*Improving access to justice, and increasing public understanding of the citizen's legal rights and duties*

- 5.13 In addition, the requirements have the potential to improve access to justice and increase public understanding of the citizen's legal rights and duties by encouraging consumers to seek affordable advice and/or representation from barristers, where they may have otherwise assumed that this was unaffordable and therefore elected not to seek legal remedies. The requirements are also intended to address the imbalance in knowledge and understanding of the law between a provider and their client. For example, the requirement to state likely additional costs will help consumers to budget, and understand what indicative fees do and do not cover. In addition, the requirement to state an indicative timescale for the key stages of the Public Access service in question will help consumers to understand what they can expect from a case and from their barrister, and manage those expectations. These measures therefore also have the potential to help improve access to justice by reducing the barriers which information asymmetries can present to accessing legal services.

*Other regulatory objectives*

- 5.14 It is not anticipated that the additional rules on price and service transparency for those undertaking Public Access work will have an adverse impact on the constitutional principle of the rule of law or adherence to the professional principles. In relation to impacting on an independent, strong, diverse and effective legal profession, the proposals have been equality impact assessed at each stage of the policy development process and the most recent EIA was published as part of the rules consultation on transparency standards (**Annex I**). The consultation asked

respondents whether they agreed with (i) the analysis in the EIA, and (ii) our view that although, in respect of different Public Access services, Public Access barristers who are BME, male/female, disabled and under 35 may be more likely to be required to comply with additional transparency requirements, this is justified given the expected benefit to Public Access clients, access to justice and competition. Following the consultation, our view remains that the impact of the proposals is justified given the expected benefit. For further information on the mitigating actions we will take, please refer to section 9 and the EIA in **Annex I**.

## **6 The better regulation principles**

### Proportionality

- 6.1 As stated in our proposed approach to improving transparency for consumers of barristers' services (**Annex D**), we have recognised that, with regard to the type of bespoke referral services most often provided by barristers, necessarily heavily caveated information may not be useful and may cause confusion for consumers of these services. We have also recognised that, compared to other legal services providers who instruct barristers, lay clients are in a weaker position to negotiate fees and understand the kind of service they should be able to expect from a barrister. Our view, therefore, is that price and service transparency requirements are most likely to increase consumer understanding and "shopping around" in the context of the Public Access Bar. However, we have also considered that many Public Access services are bespoke and, again, the risk that necessarily heavily caveated information may not be useful and may cause confusion for consumers of these services. In developing price and service transparency requirements, we have therefore prioritised the less bespoke services provided by Public Access barristers.
- 6.2 However, we also consider it important that all barristers should be required to meet minimum transparency standards in relation to price and service. We have therefore decided to require all chambers' websites to state that professional, licensed access and/or lay clients (as appropriate) may contact chambers to obtain a quotation for legal services. In our view, this demonstrates a commitment to transparency and facilitating "shopping around" without either risking consumer confusion or overburdening barristers and chambers.



- 6.3 In addition, we will take a proportionate, risk-based approach to supervision. To ensure compliance with the transparency rules, we will undertake spot-checking from January 2020. This will focus on barristers who we believe are at higher risk of non-compliance with the transparency rules, supplemented with a random sample of self-employed barristers and BSB entities. Higher risk will be established, among other things, with reference to a barrister's history of regulatory compliance. As well as this spot-checking from January 2020, it is also likely that we will seek to gather information about compliance with, and the impact of, the transparency rules as part of the new regulatory return. The scope of the regulatory return will be developed and defined by autumn 2019, and then issued to the profession from January 2020.

#### Accountability and Transparency

- 6.4 Following a policy consultation on transparency standards issued in October 2017 (**Annex C**), the BSB published our proposed approach to improving transparency for consumers of barristers' services in February 2018 (**Annex D**). The outcome of the policy consultation is discussed in more detail in section 2. The BSB's rules consultation on transparency standards (**Annex I**) was then issued in September 2018 and closed in December 2018. Following discussion by the BSB Board in public session, a summary of consultation responses (**Annex J**) was published on the BSB's website in March 2019.
- 6.5 The responses we received to both consultations helped to inform our current proposals, which to varying degrees have been amended from our original proposals. For information on the challenges presented by the rules consultation responses and the BSB's response to them, please refer to section 8 and **Annex J**.

#### Consistency

- 6.6 As outlined in the BSB's price transparency policy statement (**Annex B**), one of our policy objectives is to align with the approaches of the SRA and the other legal services regulators where appropriate. The transparency rules do this, only deviating where we consider it necessary to providing less experienced, less expert and more vulnerable clients with beneficial information remedies.
- 6.7 In addition, as outlined in our price transparency policy statement, one factor which would indicate that a Public Access service should be subject to price transparency

requirements is if this would promote competition and allow consumers to compare barristers' prices for the service with those of solicitors and other legal providers. If price transparency in relation to a service is required by the SRA or another legal services regulator, this would therefore be one reason for the BSB to require the same. However, the BSB is a regulator of specialist legal services. Our particular focus is on the specialised regulation of advocacy and related litigation services and expert legal advice. Our price transparency requirements are therefore consistent with the types of legal services provided by our regulated community in practice. Where price transparency in relation to a service is required by the SRA or another legal services regulator, we have not required the same if the service is not in practice provided by barristers e.g. conveyancing.

- 6.8 Nonetheless, the Public Access services to which we have applied price transparency requirements are broadly the same as those services to which the SRA and other legal services regulators have applied price transparency requirements. We have also applied price transparency requirements to some additional Public Access services. While this reduces regulatory consistency to some extent, we consider it necessary to providing less experienced, less expert and more vulnerable clients with beneficial information remedies. It will also support our overriding policy objective (in our price transparency policy statement) of having the greatest impact on the legal services market.

#### Targeting

- 6.9 Those undertaking Public Access work may be required to provide additional price and service information in relation to certain Public Access services, but only in specific circumstances. For each of these Public Access services, the specific circumstances in which price transparency requirements apply can be found at **Annex A**. The requirements have been targeted at the less bespoke elements of the services which are conducive to providing indicative fees in the abstract. In relation to personal injury claims, for example, price transparency rules only apply in relation to claims which are allocated to the fast track (generally, claims which are not worth more than £25,000). This will maximise the extent to which price and service information can be compared by consumers and therefore best promote competition in the provision of legal services.

## **7 Date of implementation and operational readiness**

- 7.1 It is proposed that the transparency rules will come into force in May 2019. This will be communicated to the profession and other stakeholders via a press release, the BSB's monthly Regulatory Update e-mail, Counsel magazine and the BSB's Twitter, Facebook and LinkedIn accounts. We will also be writing directly to all Heads of Chambers, sole practitioners and BSB entities to inform them of the transparency rules and the need to comply.
- 7.2 Updated versions of the BSB's Transparency Standards Guidance, Public Access Guidance for Barristers and Lay Clients and Public Access Model Client Care Letters will be published when the transparency rules come into force in May 2019.

## **8 Consultation processes undertaken**

- 8.1 Following a policy consultation on transparency standards issued in October 2017 (**Annex C**), the BSB published our proposed approach to improving transparency for consumers of barristers' services in February 2018 (**Annex D**). The outcome of the policy consultation is discussed in more detail in section 2.
- 8.2 The BSB's rules consultation on transparency standards (**Annex I**) was issued in September 2018 and closed in December 2018. The purpose of the rules consultation was to ensure that the rules we drafted to give effect to our proposed approach to improving transparency were clear, and that the Transparency Standards Guidance we published alongside the consultation would help the Bar to comply with the new rules. Following discussion by the BSB Board in public session, a summary of consultation responses (**Annex J**) was published on the BSB's website in March 2019. The consultation was promoted via a press release, the BSB's monthly Regulatory Update e-mail, Counsel magazine and the BSB's Twitter, Facebook and LinkedIn accounts. We also engaged extensively with stakeholders including the Legal Ombudsman, Legal Practice Management Association, Legal Services Consumer Panel and the Specialist Bar Associations.
- 8.3 The main changes made a result of the consultation responses were as follows:

- Amending Rule C159.1 to clarify that “quotations must be provided if sufficient information has been provided by the client, and the barrister, barristers in chambers or BSB entity would be willing to provide the legal services”;
- Amending Rule C159.3 to clarify that websites must “provide information about the factors which might influence the timescales of [barristers’] most commonly provided legal services” (as opposed to cases more generally);
- Amending Rule C161 so that the requirement to ensure information is readily available in hard copy format will instead be to ensure information is readily available in alternative format. This is because if a client or prospective client does not have Internet access, they may not only require information in hard copy format;
- Removing cases concerning child arrangements arising out of divorce or separation from the list of Public Access services to which additional price transparency requirements apply. This is because such cases are not conducive to providing indicative fees in the abstract;
- In relation to financial disputes arising out of divorce, limiting the application of additional price transparency requirements to cases where the parties have joint assets worth less than £300,000. This is based on practitioner feedback that if joint assets are above this level, it will be more difficult to provide accurate indicative fees;
- In relation to Inheritance Act advices, limiting the application of additional price transparency requirements to cases where the deceased person’s estate is worth less than £300,000. This is again based on practitioner feedback that if the estate is worth more than this, it will be more difficult to provide accurate indicative fees; and
- Various other amendments to the BSB’s Transparency Standards Guidance.

8.4 For further information on the challenges presented by the consultation responses and the BSB’s response to them, please refer to **Annex J**.

## **9 Equality Impact Assessment**

9.1 The proposals have been equality impact assessed at each stage of the policy development process. The most recent EIA was published as part of the rules consultation on transparency standards (**Annex I**). The consultation asked respondents whether they agreed with (i) the analysis in the EIA, and (ii) our view that although, in respect of different Public Access services, Public Access barristers who are BME, male/female, disabled and under 35 may be more likely to be required to comply with additional transparency requirements, this is justified given the

expected benefit to Public Access clients, access to justice and competition. The Bar Council agreed that the impact of the proposals is justified given the expected benefit. They stated that *“the issue of fees is one of the most potent deterrents to those who need representation seeking to obtain it. Of such groups of potential clients those with protected characteristics or who are vulnerable can be assumed to represent a significant proportion”*.

9.2 We will review whether there has been any adverse impact for different groups as part of the evaluation of the requirements from 2020.

9.3 We have also produced comprehensive Transparency Standards Guidance to support barristers in complying with the requirements, which includes examples of required transparency for Public Access services. This will particularly help those who do not have the resources of chambers administration and support available to them.

## **10 Supervision and evaluation**

10.1 If approved by the LSB following our application, the transparency rules will come into force in May 2019. To ensure compliance with the transparency rules, the BSB will undertake spot-checks from January 2020. This will focus on barristers who we believe are at higher risk of non-compliance with the transparency rules, supplemented with a random sample of self-employed barristers and BSB entities. Higher risk will be established, among other things, with reference to a barrister’s history of regulatory compliance. Spot-checking may also take place:

- In higher risk practice areas such as immigration and family law, which are likely to have more vulnerable consumers;
- In practice areas with less bespoke services, where price transparency is particularly useful for consumers;
- In relation to the Public Access services which are subject to additional price transparency requirements, as set out in the BSB’s price transparency policy statement (**Annex B**); and
- In relation to the requirement that information must be readily available in alternative format, and provided on request e.g. if barristers do not operate a website, or a client or prospective client does not have Internet access.

10.2 As well as this spot-checking from January 2020, it is also likely that we will seek to gather information about compliance with, and the impact of, the transparency rules as part of the new regulatory return. The scope of the regulatory return will be developed and defined by autumn 2019, and then issued to the profession from January 2020. From 2020, the BSB will also evaluate the effectiveness of all mandatory rules on price, service and redress transparency for self-employed barristers, chambers and BSB entities. It is hoped that the information gathered as part of the regulatory return will assist us with this evaluation programme.

10.3 In evaluating the effectiveness of the transparency requirements, we are likely to consider three discrete strands – implementation of, compliance with, and impact of, the transparency requirements – and be guided by the following research questions:

#### Implementation

- What were the perceptions and experiences of those regulated by the BSB (“providers”) in implementing the transparency requirements?
- How well have providers understood the transparency requirements?
- How useful was the BSB’s Transparency Standards Guidance?

#### Compliance

- Compared to baseline data, what is the extent of compliance with the transparency requirements? (Baseline data will be collected prior to January 2020 via a desk-based web sweep).
- What were the reasons for any non-compliance?
- What issues have emerged from the spot-checks and/or the new regulatory return?

#### Impact

- Do consumers report increased awareness of the availability of price and service information?
- Have the transparency requirements changed the ways in which consumers find and choose providers? Has there been an increase in “shopping around”?
- Has consumer understanding of price and service information improved?

- Do consumers report increased use of price and service information in their decision-making?
- Has there been any change in the number of complaints to LeO regarding fees?
- Do consumers report increased checking of the regulatory status of providers?
- Have there been differential equality impacts, either adverse or positive, for different groups of providers or consumers?
- Have providers or consumers perceived or experienced any unintended consequences as a result of the transparency requirements?

10.4 As part of the impact strand of the evaluation programme, we will also review whether applying additional transparency requirements to certain Public Access services has potentially affected the proportion of Public Access barristers undertaking work in those practice areas. What follows is a list of the Public Access services to which we have applied additional transparency requirements, the corresponding practice areas and, as of March 2019, the baseline figures for the percentage of the Public Access Bar undertaking work in those practice areas:

- Employment Tribunal cases (advice and representation for employers and employees) (*practice area: employment, 12.2% of the Public Access Bar*);
- Financial disputes arising out of divorce (*practice area: family – other, 20.3% of the Public Access Bar*);
- Immigration appeals (First-tier Tribunal) (*practice area: immigration, 9.4% of the Public Access Bar*);
- Inheritance Act advices (*practice area: chancery – contentious, 17.2% of the Public Access Bar*);
- Licensing applications in relation to business premises (*practice area: licensing, 2.5% of the Public Access Bar*);
- Personal injury claims (*practice area: personal injury, 18% of the Public Access Bar*);
- Summary only motoring offences (advice and representation for defendants) (*practice area: crime, 30.6% of the Public Access Bar*); and
- Winding-up petitions (*practice area: insolvency, 6.7% of the Public Access Bar*).

10.5 In addition, we will review the Public Access services which are subject to additional transparency requirements to ensure that the criteria in the BSB's price transparency policy statement still apply, and consider whether further Public Access services

should be subject to additional transparency requirements. In applying the criteria to determine this, we will:

- Having conducted desk-based market research, be sensitive to any developments in the market. For example, future changes to legal aid policy may mean that certain services become more (or less) likely to be provided to less experienced, less expert and more vulnerable consumers on a Public Access basis;
- Be sensitive to changes made to the requirements of the other legal services regulators, having regard to the need to promote price comparison, competition and have the greatest possible impact on the legal services market; and
- Seek consumer and practitioner feedback as to whether certain Public Access services (or at least the less bespoke elements of them) are proving to be, or would be, conducive to the provision of indicative fees in the abstract.

10.6 Applying the criteria as above will allow us to assess whether consumers of certain Public Access services are benefiting, or would be likely to benefit, from information remedies in the form of price transparency. If in turn we determine that there should be any changes to the Public Access services which are subject to additional transparency requirements, we will publish a revised version of the policy statement, and revised examples of the required transparency. We will also review whether applying additional transparency requirements to certain Public Access services has encouraged improved price and service transparency, where appropriate, for other Public Access services.

10.7 We will aim to conclude the evaluation programme in 2021. The final report will incorporate the findings of the three discrete strands – implementation, compliance with and impact of the transparency requirements – and make recommendations in respect of further policy development by the BSB.

## **11 Annexes**

Annex A – Transparency Rules

Annex B – BSB's Price Transparency Policy Statement (February 2019)

Annex C – BSB's Policy Consultation on Transparency Standards (October 2017)



Annex D – BSB’s Approach to Improving Transparency (February 2018)

Annex E – BSB’s Transparency Pilot Evaluation (May 2018)

Annex F – Consumer Behaviour and Attitudes to Price and Service Transparency, Summary (September 2018)

Annex G – Consumer Behaviour and Attitudes to Price and Service Transparency, Full Report (September 2018)

Annex H – Consumer Behaviour and Attitudes to Price and Service Transparency, Technical Annex (September 2018)

Annex I – BSB’s Rules Consultation on Transparency Standards (September 2018)

Annex J – Summary of Responses to the BSB’s Rules Consultation on Transparency Standards (March 2019)