

BSB HANDBOOK - Risk Analysis: Code of Conduct and Scope of Practice					
Objective	Risks	Mitigation			
		Outcomes	Section II.B: Core Duties	Section II.C and II.D: Conduct rules	Other rules
1. Courts can rely on APs to observe their duties to the court and the proper administration of justice, and clients are made aware of these duties: miscarriages of justice are avoided	APs promote clients' interests inappropriately/try to win at all costs (eg do not inform the court or a relevant authority or fail to highlight a procedural irregularity)	II.C1.O1; II.C1.O2; II.C1.O4	II.B.CD1; II.B.CD5	II.C1.R1 - 5; II.C2.R1 - 2; II.C3.R7.5; II.C3.R11	
	APs do not know how to balance their duty to the court and their duty to clients	II.C1.O1; II.C1.O2; II.C1.O3; II.C1.O4	II.B.CD1	II.C1.R1 - 5; II.C2.R1 - 2; II.C3.R2; II.C3.R7.5; II.C3.R11	
	Clients and others do not know what to expect of barristers in court	II.C1.O3; II.C1.O5	II.B.CD1; II.B.CD2	II.C1.R1 - 5; II.C2.R2; II.C3.R2; II.C3.R7.5; II.C3.R11	
	APs' behaviour in court leads to loss of confidence in administration of justice and/or barristers (e.g. time wasting or harrassing a witness)	II.C1.O2; II.C1.O5	II.B.CD1; II.B.CD5	II.C1.R1 - 5; II.C2.R1 - 2; II.C3.R7.5; II.C3.R11	
	External shareholders seek to exercise pressure to act in ways which would conflict with duties to the court	II.C1.O2; II.C1.O5	II.B.CD1; II.B.CD4		III.E1.R3.3; III.E4.R1; III.E4.R2; III.E4.R3
2. The courts, the public and clients are confident APs will act with honesty and integrity	APs act dishonestly in their business or professional dealings	II.C1.O5; II.C2.O1	II.B.CD1; II.B.CD3; II.B.CD5	II.C1.R1; II.C1.R4; II.C2.R1; II.C2.R2; II.C2.R3; II.C3.R5; II.C4.R2; II.C4.R3	

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	APs deliberately or recklessly mislead others	II.C1.O5; II.C2.O1	II.B.CD1; II.B.CD3; II.B.CD5	II.C1.R1;II.C1.R1 ; II.C2.R1; II.C2.R2; II.C3.R5; II.C4.R3	
	APs put their own interests ahead of clients' interests	II.C2.O1; II.C3.O2	II.B.CD2; II.B.CD3; II.B.CD5	II.C2.R1; II.C2.R3; II.C3.R1; II.C3.R2; II.C3.R3; II.C3.R4; II.C3.R5; II.C3.R7; II.C4.R3	
	APs give or accept substantial gifts or favours from professional contacts or pay a referral fee for the introduction of work	II.C2.O1	II.B.CD3; II.B.CD5	II.C2.R1; II.C2.R3; II.C4.R3	
	APs fail to comply with undertakings they have given	II.C2.O1	II.B.CD3; II.B.CD5	II.C2.R1; II.C2.R4	
	APs working abroad fail to comply with local laws or rules	II.C2.O1	II.B.CD3; II.B.CD5; II.B.CD9	II.C2.R1; II.C2.R6; II.C2.R7	
3. Clients are confident APs will act independently	Judgement is affected by APs' own interests	II.C2.O1	II.B.CD4	II.C2.R1; II.C2.R3; II.C3.R7.10	
	Judgement is affected by pressure from others - employers, other clients etc	II.C2.O1	II.B.CD4	II.C2.R1; II.C3.R6; II.C3.R7.10	
	AP is involved personally in the case eg as a witness	II.C2.O1	II.B.CD4	II.C3.R7.10	
	AP is too close to the client and cannot exercise an independent judgement	II.C2.O1	II.B.CD4		III.B3.R3; III.B3.R4; III.B4.R3; III.B5.R3

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		Outcomes	Section II.B: Core Duties	Section II.C and II.D: Conduct rules	Other rules
4. Clients' trust in the Bar, individual barristers and other BSB regulated APs is maintained	APs act in a way which causes clients and the public to lose confidence in them	II.C1.O5; II.C2.O1; II.C3.O6; II.C4.O2 II.C5.O1	II.B.CD5	II.C2.R1; II.C2.R2; II.C2.R3; II.C3.R5; II.C4.R2; II.C4.R3; II.C5.R7, II.C5.R12; II.C5.R13	
	Barristers behave in their private lives or business dealings in a way which brings themselves or the profession into disrepute	II.C2.O1; II.C4.O2	II.B.CD5	II.C2.R1; II.C2.R2; II.C2.R3; II.C4.R2	
	APs abuse their professional position	II.C2.O1	II.B.CD5	II.C1.R5; II.C3.R5	
	APs act dishonestly	II.C2.O1	II.B.CD3; II.B.CD5	II.C2.R1; II.C2.R2; II.C2.R3; II.C3.R5; II.C4.R2; II.C4.R3	
	APs deliberately or recklessly mislead others	II.C2.O1	II.B.CD3; II.B.CD5	II.C2.R1; II.C3.R5; II.C4.R2; II.C4.R3; II.C5.R11; II.C5.R12	
	APs publish advertising material that is misleading or inaccurate.	II.C2.O1	II.B.CD3; II.B.CD5	II.C3.R5	
	APs working abroad fail to comply with local laws or rules	II.C2.O1	II.B.CD3; II.B.CD5; II.B.CD9	II.C2.R1; II.C2.R6; II.C2.R7	
5. Clients' affairs are kept confidential	APs disclose confidential information and/or have inadequate systems for protecting confidential information	II.C3.O1	II.B.CD6	II.C3.R1.5; II.C3.R7.4; II.C5.R17.5; II.C5.R22.5	

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		Outcomes	Section II.B: Core Duties	Section II.C and II.D: Conduct rules	Other rules
6. The best interests of each client (subject to duties to the court) are promoted	APs take on cases in which there are conflicting interests between themselves and their clients, or between different clients, and/or do not have proper systems for managing conflicts	II.C3.O3; II.C5.O1	II.B.CD2; II.B.CD10	II.C3.R1; II.C3.R7.1-4; II.C5.R17.5; II.C5.R17; II.C5.R22.5; II.C5.R23	III.B2.R3.2
	APs are influenced by their own interests	II.C2.O1; II.C3.O2	II.B.CD2	II.C3.R1; II.C3.R3; II.C3.R7.2; II.C5.R9; II.C5.R10	
	Clients are not aware of the AP's own interests in a proposed arrangement	II.C2.O1; II.C3.O2	II.B.CD2; II.B.CD3	II.C3.R7.2; II.C5.R9; II.C5.R10	
	APs are influenced by pressure from others and concern about consequences for them	II.C2.O1	II.B.CD2;	II.C3.R1; II.C3.R7.2	II.B.CD4
	APs continue acting, or acting on their own, when other advice is desirable	II.C3.O2	II.B.CD2	II.C3.R1; II.C3.R3	
	Clients expect APs to act in their interests irrespective of their duties to the court	II.C1.O4; II.C3.O4	II.B.CD1; II.B.CD2	II.C3.R2	
	External shareholders seek to exercise pressure to act in ways which are not in the best interests of clients	II.C3.O2	II.B.CD2		III.E1.R3.3; III.E4.R1; III.E4.R2; III.E4.R3
7. Each client is provided with a competent standard or work and receives a good service: (1) Barristers and other APs have the necessary skills and competence for the work they do	Barristers do not have the appropriate training and experience before starting practice	II.C3.O1	II.B.CD7		Part IV: Qualification Rules. Section III.B, III.C, III.D and III.E (Scope of Practice, Authorisation and Licensing Rules)

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		Outcomes	Section II.B: Core Duties	Section II.C and II.D: Conduct rules	Other rules
	Young barristers lack necessary experience	II.C3.O1	II.B.CD7	II.C3.R4	Part IV: Qualification Rules. Section III.B, III.C, III.D and III.E (Scope of Practice, Authorisation and Licensing Rules)
					III.B2.R4; III.B2.R5; III.B2.R7; III.C4.R3.3; III.C4.R3.4; Part IV: CPD rules; Monitoring CPD returns
	Barristers do not keep their skills up to date	II.C3.O1; II.C3.O6	II.B.CD7; II.B.CD10	II.C3.R4	III.C4.R3.4; Part IV: CPD rules
	Barristers' standards slip	II.C3.O1; II.C3.O6	II.B.CD7; II.B.CD10	II.C3.R4	QASA rules; BSB complaints procedures
	APs take on cases beyond their competence or outside their authorisation	II.C3.O1; II.C3.O6; II.C3.O7	II.B.CD2; II.B.CD7	II.C3.R7.7 - 8	Section III.B1; III.B5.R2; III.B6.R2; III.B6.R3; III.B7.R1; III.B7.R2; III.B8.R1
	APs undertake litigation without the necessary skills	II.C3.O1; II.C3.O6; II.C3.O7	II.B.CD7	II.C3.R7.7; II.C3.R7.8; II.D2.R12	III.B2.R5; III.B2.R7; III.C2.R2; III.E2.R2

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		Outcomes	Section II.B: Core Duties	Section II.C and II.D: Conduct rules	Other rules
	Barristers (as primarily a referral profession) or other APs work without a suitable professional client	II.D2.O3	II.B.CD7	II.C3.R3; II.D2.R4; II.D2.R5; II.D2.R14; II.D2.R15; II.D2.R16; II.D2.R17; II.D2.R20; II.D2.R21	III.B2.R1; III.B3.R1; III.B3.R2; III.B4.R1; III.B4.R2
	APs take on public access work without the necessary understanding of what is involved	II.D2.O3	II.B.CD7	II.D2.R1; II.D2.R2; II.D2.R3; II.D2.R4; II.D2.R6	III.B3.R1; III.B3.R2; III.B4.R1; III.B4.R2
7. (2) Work is performed to a good standard and clients are treated appropriately	APs or their employees provide poor service or misleading information	II.C3.O1; II.C3.O2; II.C3.O9	II.B.CD7	II.C3.R5	Guidance on II.C3.R1-2 and II.C3.G22
	Work is delegated or outsourced to persons who are not competent to do it	II.C3.O1; II.C3.O7	II.B.CD7	II.C3.R5; II.C3.R6; II.C5.R14; II.C5.R17.6; II.C5.R18; II.C5.R22.2; II.C5.R23	III.B1.R2
	Employees are not adequately trained	II.C5.O1	II.B.CD7	II.C5.R17.6; II.C5.R18; II.C5.R22.2; II.C5.R23	
	Complaints procedures are ineffective	II.C5.O1; II.D1.O1; II.D1.O2	II.B.CD7	II.C5.R17.6; II.C5.R18; II.D1.R1-11	

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		Outcomes	Section II.B: Core Duties	Section II.C and II.D: Conduct rules	Other rules
	Clients are unclear about the basis on which instructions are accepted	II.C3.O4; II.C3.O9	II.B.CD7	II.C3.R8; II.C3.R9; II.C3.R10; II.D2.R7; II.D2.R8; II.D2.R9; II.D2.R18; II.D2.R19	III.B3.R2; III.B4.R2; services directive
	APs return instructions late or otherwise to the detriment of clients	II.C3.O7; II.C3.O8	II.B.CD7	II.C3.R11; II.C3.R12; II.C3.R13	
7. (3) Work is completed within a reasonable time	APs take on too much work and do not keep clients properly informed	II.C3.O1	II.B.CD7	II.C3.R4, II.C3.R7.9	
	Advocates have conflicting engagements	II.C3.O7; II.C3.O8	II.B.CD7	II.C3.R12.3	
	Instructions are returned when they should not be and/or APs and clients are uncertain about when instructions may properly be returned	II.C3.O7; II.C3.O8	II.B.CD7	II.C3.R11; II.C3.R12; II.C3.R13	
7. (4) Clients' interests are protected	APs are not covered by adequate insurance	II.C3.O2; II.C5.O1	II.B.CD7	II.C5.R4; II.C5.R5; II.C5.R6	III.C4.R1.4; III.C4.R3.1; III.E1.R2.2
	Clients do not know how to complain	II.D1.O1	II.B.CD7	II.D1.R1; II.D1.R2; II.D1.R3; II.D1.R4; II.D1.R5	
	APs misappropriate client money or fail to manage it effectively	II.C5.O1	II.B.CD7	II.C5.R1; II.C5.R2	
	APs fail or cease to practise	II.C4.O1; II.C4.O3	II.B.CD7	II.C4.R7; II.C4.R9	LSA intervention powers for ABSs

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7. (5) Clients understand the basis on which services are being provided	Clients are misled about which services are regulated or who is providing them	II.C5.O2	II.B.CD7	II.C3.R6; II.C5.R11; II.C5.R12; II.D1.R1; II.D1.R2	
	Clients are unclear about the terms on which the work is being undertaken.	II.C3.O9	II.B.CD7	II.C3.R5; II.C3.R8; II.C3.R9; II.C3.R10; II.D2.R7; II.D2.R8; II.D2.R9; II.D2.R11; II.D2.R12; II.D2.R18; II.D2.R19	
	APs have associations with others whose standards might put clients at risk	II.C3.O2	II.B.CD7	II.C5.R11	
	Associations with others or outsourcing confuse clients	II.C5.O2	II.B.CD7	II.C3.R5; II.C5.R11; II.C5.R12; II.C5.R13; II.C5.R14	
	Unregistered barristers provide legal services to vulnerable clients who assume that they are regulated in the same way as practising barristers	II.D5.O1	II.B.CD7	II.D5.R1; II.D5.R2	
7. (6) Good records are kept	Clients suffer because records are inadequate	II.C5.O1	II.B.CD7	II.C5.R15.2; II.C5.R22.3; II.C5.R23; II.D2.R10; II.D2.R11; II.D2.R22; II.D2.R23	

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	Fees are not supported by adequate records	II.C5.O1	II.B.CD7	II.C5.R16; II.C5.R22.8; II.C5.R22.9; II.C5.R23	
8. Access to justice is promoted and potential clients can obtain access to a suitable barrister	APs reject instructions on the basis of the nature of the case or of the client	II.C2.O3; II.C3.O7	II.B.CD1; II.B.CD2; II.B.CD8	II.C2.R5; II.C3.R14; II.C3.R15	
	Instructions are rejected because the AP has a commercial interest in acting for a different client	II.C3.O7	II.B.CD1; II.B.CD2; II.B.CD8	II.C3.R14; II.C3.R15	
9. APs promote equality and diversity [addition deleted]	APs reject instructions on the basis of the ethnicity or other protected characteristic of the client	II.C2.O3	II.B.CD8	II.C2.R5; II.C3.R14; II.C3.R15	
	APs discriminate improperly against clients, colleagues, employees or others	II.C2.O3	II.B.CD8	II.C2.R5; II.C3.R14; II.C3.R15	
	Arrangements in Chambers/the entity disadvantage certain groups/do not promote equality and diversity	II.C2.O3; II.D1.O3; II.D1.O4	II.B.CD8	II.C2.R5; II. C5.R17.4; II.C5.R18; II.C5.R22.4; II.C5.R23; II.D1.R12; II.D1.R13; II.D1.R14; II.D1.R15; II.D1.R16; II.D1.R17; II.D1.R18; II.D1.R19; II.D1.R20	

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	Recruitment policies are unfair	II.C2.O3; II.D1.O3; II.D1.O4	II.B.CD8	II.C2.R5; II.C5.R17.4; II.C5.R18; II.C5.R22.4; II.C5.R23; II.D1.R12.3(b) - (d); II.D1.R13; II.D1.R19; II.D1.R20	
	Colleagues, employees or clients are harrassed	II.D1.O3	II.B.CD8	II.C2.R5; II.D1.R12.3(j)	
	Chambers/entities do not have enough information to monitor the effectiveness of their equality and diversity policies	II.D1.O3	II.B.CD8	II.D1.R12.3(e)-(g); II.D1.R13	
10. The BSB has the information and co-operation it needs to operate effective risk based, proportionate regulation	APs do not provide necessary information	II.C4.O3	II.B.CD9	II.C4.R1; II.C5.R8; II.C5.R9; II.C5.R10	
	Potential breaches of the Code are not reported	II.C4.O1; II.C4.O2	II.B.CD9	II.C4.R2; II.C4.R3; II.C4.R4; II.C5.R24	
	APs fail to co-operate with BSB investigations	II.C4.O1	II.B.CD9	II.C4.R1; II.C4.R7	
	APs fail to co-operate in winding up a Chambers/entity which ceases to practise	II.C4.O2	II.B.CD9	II.C4.R9	
11. LeO can carry out its functions effectively	Barristers fail to co-operate	II.C4.O1; II.C4.O2	II.B.CD9	II.C4.R8	

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12. Barristers' practices, Chambers and entities are managed competently in a way which achieves compliance with relevant rules	The absence of effective systems puts the achievement of other objectives at risk	II.C5.O1	II.B.CD10	II.C5.R15.1; II.C5.R17; II.C5.R18; II.C5.R22; II.C5.R23	
	Managers or employees do not comply with their regulatory obligations	II.C5.O1	II.B.CD10	II.C5.R17.6-7; II.C5.R19; II.C5.R20; II.C5.R21; II.C5.R22.1; II.C5.R22.6; II.C5.R22.7; II.C5.R23-R26	
	The HoLP/HoFA fail to comply with their various Code and legal obligations	II.C5.O1	II.B.CD10	II.C5.R24; II.C5.R25; II.C5.R26	
	Case records are inadequate and/or fees cannot be justified by proper records	II.C5.O1	II.B.CD10	II.C5.R15.2; II.C5.R16; II.D2.R10; II.D2.R11; II.D2.R22; II.D2.R23	
	APs which undertake litigation do not have the necessary procedures or systems in place	II.C5.O1	II.B.CD10	II.C5.R15.1	III.C2.R2.4; III.C2.R2.5
	Managers or employees in Chambers/entities are incompetent, inadequately trained or act in a way which causes breaches of the rules	II.C5.O1	II.B.CD7; II.B.CD10	II.C5.R17.3; II.C5.R17.6- R17.8; II.C5.R18; II.C5.R22; II.C5.R23	Part V: disqualification rules

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	Procedures for recruiting and managing pupils are unfair or inadequate	II.D1.O4; II.C5.O1	II.B.CD10	II.C5.R17.4; II.C5.R18; II.C5.R22.4; II.C5.R23; II.D1.R19; II.D1.R20	
	Complaints procedures are unsatisfactory	II.C5.O1; II.D1.O2	II.B.CD7; II.B.CD10	II.C5.R17.1; II.C5.R17.6; II.C5.R17.7; II.D1.R1-R11	
	LSA authorisation requirements are breached or relevant rules are not followed	II.C4.O3; II.C5.O1	II.B.CD10	II.C4.R1; II.C4.R2; II.C4.R3; II.C4.R4; II.C4.R7; II.C4.R8; II.C5.R17.3; II.C5.R17.7; II.C5.R17.9, II.C5.R22.1; II.C5.R22.6; II.C5.R22.7; II.C5.R23; II.C5.R24; II.C5.R25; II.C5.R26	Section III.B1; III.B2.R1-2; III.B5.R2; III.B6.R2; III.B6.R3; III.B7.R1; III.B7.R2; III.B8.R1; III.B9.R1-2; III.C4.R1; III.C4.R3; III.E10.R1
	Chambers/entities do not act on rule breaches	II.C5.O1	II.B.CD10	II.C5.R17.2; II.C5.R19; II.C5.R22.1; II.C5.R23; II.C5.R24; II.C5.R25; II.C5.R26	