

Consumer views on the BSB Handbook

The BSB has sought consumer input at every stage of developing the new Handbook. At each stage of consultation, we have sought responses from representatives of consumers. For example, our standard list of consultees includes the following:

- BSB User Group
- Which?
- Consumer focus
- National Association of Citizens Advice Bureaux
- Unlock
- Refugee Action
- MIND
- Refugee Council
- Rethink – mental health charity

Attempted focus groups

When developing the Core Duties, the BSB commissioned a market research company called Opinion Leader, which specialises in consumer engagement. They considered the possibility of focus groups, the output from which would be feedback on the Core Duties and consumer views about what a good barrister would look like. We did not proceed with the focus groups, as there was no practical way to access lay clients who had actually used barristers' services. They also explored the possibility of focus groups in prisons, but there was little interest there. The project was therefore abandoned.

User Group discussions

We convened a meeting of the BSB User Group during the April 2011 consultation on the new Code of Conduct. This was poorly attended, although the conclusions from the discussion were circulated to the wider group by email afterwards for any additional comments. A copy of the report is available. The Group was specifically asked about the proposed Conduct Rules, the Practice Rules and the content of the register, unregistered barristers, reporting misconduct and publication of disciplinary findings. The group generally supported (or made no comment on) the BSB's proposals in these areas. In relation to unregistered barristers, there was a feeling that the title 'barrister' should be linked to entitlement to practise rather than call to the Bar, but there was an acceptance that the BSB's proposals for dealing with unregistered barristers were the best that could practically be achieved.

A further meeting of the User Group was convened during the March 2012 consultation. Again, a relatively small number of the User Group attended, but we sought comments from the full group via email following the meeting. Feedback was sought specifically on:

- The presentation of the new Handbook;
- The Core duties and their application to unregistered barristers;
- Premises sharing, associations and outsourcing;

- Dual authorisation;
- Equality and diversity issues; and
- Our approach to risk.

The key substantive feedback we received on these proposals related to the outcomes, the duty to report one's own misconduct and the litigation proposals. To summarise:

- There was general agreement that outcomes would be difficult to enforce and that the Core Duties and rules should remain the basis of prosecutions. They felt that the outcomes themselves were suitable;
- They agreed with the duty to report one's own misconduct, but thought best practice would be to report it to the client as well as the Head of Chambers and the BSB and that there should be a general duty to be open and honest with the client about any breaches. The BSB had not consulted on this and decided that it would not be proportionate to extend the duty at this stage, although guidance makes clear that the barrister should take all reasonable steps to mitigate the effect of any serious misconduct;
- They queried whether self-certification was appropriate for litigation authorisation. We have also considered proportionality issues and for reasons discussed in the application we believe that this remains the appropriate approach.