

ANNEX 1

Part III - Fundamental principles

The Fundamental Principles section includes the duty to not act dishonestly or bring the profession into disrepute, the duties to the court and to act in the best interest of the client. It also contains the duties to the Legal Services Commission, the duty to not discriminate on grounds of race, sex, age, disability etc. and the duty to maintain independence.

Applicable to all barristers

301. A barrister must have regard to paragraph 104 and must not:
- (a) engage in conduct whether in pursuit of his profession or otherwise which is:
 - (i) dishonest or otherwise discreditable to a barrister;
 - (ii) prejudicial to the administration of justice; or
 - (iii) likely to diminish public confidence in the legal profession or the administration of justice or otherwise bring the legal profession into disrepute;
 - (b) engage directly or indirectly in any occupation if his association with that occupation may adversely affect the reputation of the Bar or in the case of a practising barrister prejudice his ability to attend properly to his practice.

Applicable to practising barristers

302. A barrister has an overriding duty to the Court to act with independence in the interests of justice: he must assist the Court in the administration of justice and must not deceive or knowingly or recklessly mislead the Court.
303. A barrister:
- (a) must promote and protect fearlessly and by all proper and lawful means the lay client's best interests and do so without regard to his own interests or to any consequences to himself or to any other person (including any colleague, professional client or other intermediary or another barrister, the barrister's employer or any Authorised Body of which the barrister may be an owner or manager);
 - (b) owes his primary duty as between the lay client and any other person to the lay client and must not permit any other person to limit his discretion as to how the interests of the lay client can best be served;
 - (c) when supplying legal services funded by the Legal Services Commission as part of the Community Legal Service or the Criminal Defence Service owes

his primary duty to the lay client subject only to compliance with paragraph 304.

304. A barrister who supplies legal services funded by the Legal Services Commission as part of the Community Legal Service or the Criminal Defence Service must in connection with the supply of such services comply with any duty imposed on him by or under the Access to Justice Act 1999 or any regulations or code in effect under that Act and in particular with the duties set out in Annex E.

~~305.1. A barrister must not in relation to any other person (including a client or another barrister or a pupil or an employee or a student member of an Inn of Court) discriminate directly or indirectly because of race, colour, ethnic or national origin, nationality, citizenship, sex, sexual orientation, marital status, disability, age, religion or belief.~~

305.12. A barrister must not, in his professional practice, discriminate improperly against, victimise or harass any other person on the grounds of race, colour, ethnic or national origin, nationality, citizenship, sex, gender re-assignment, sexual orientation, marital or civil partnership status, disability, age, religion or belief or pregnancy and maternity. ~~in relation to any other person, victimise that person for carrying out a protected act as defined in the relevant legislation.~~

305.23. Deleted from 1st October 2005.

306. A barrister is individually and personally responsible for his own conduct and for his professional work: he must exercise his own personal judgement in all his professional activities.

307. A barrister must not:

- (a) permit his absolute independence integrity and freedom from external pressures to be compromised;
- (b) do anything (for example accept a present) in such circumstances as may lead to any inference that his independence may be compromised;
- (c) compromise his professional standards in order to please his client the Court or a third party, including any mediator ;
- (d) give a commission or present (save for small promotional items) or lend any money for any professional purpose to or (save as a remuneration in accordance with the provisions of this Code) accept any money by way of loan or otherwise from any client or any person entitled to instruct him as an intermediary;
- (e) make any payment (other than a payment for advertising or publicity permitted by this Code or in the case of a self-employed barrister remuneration paid to any clerk or other employee or staff of his chambers) to any person for the purpose of procuring professional instructions;

Provided that nothing in paragraph 307(d) or (e) shall prevent a barrister from paying a reasonable fee or fees required by an alternative dispute resolution body that appoints or recommends persons to provide mediation, arbitration or

adjudication services, or from entering into a reasonable fee-sharing arrangement required by such a body, if the payment or arrangement is of a kind similar to that made by other persons who provide such services through the body;

(f) Deleted from 26th March 2010.

Part IV - Self-employed barristers

This section concerns self-employed barristers only. It provides for the circumstances in which they can accept instructions. This section also contains further rules governing insurance, the duties of barristers and heads of chambers to administer their practice efficiently, and the rules about fees.

Instructions

- 401 A self-employed barrister whether or not he is acting for a fee:
- (a) may supply legal services only if appointed or instructed by a Court or if instructed:¹
 - (i) by a professional client; or
 - (ii) by a licensed access client, in which case he must comply with the Licensed Access Rules (reproduced in Annex F1); or
 - (iii) subject to paragraph 204(c), by or on behalf of any other lay client, in which case he must comply with the Public Access Rules (reproduced in Annex F2); or
 - (b) must not in the course of his practice, except as permitted by the Public Access Rules:
 - (i) undertake the management administration or general conduct of a lay client's affairs;
 - (ii) conduct litigation (for example issuing any claim or process or instructing any expert witness or other person on behalf of his lay client or accepting personal liability for the payment of any such person) and must not conduct correspondence or other work involving other parties save as permitted by rule 401A below.
 - (iii) conduct a case in court if the barrister has previously investigated or collected evidence for that case unless the barrister reasonably believes that the investigation and collection of that evidence is unlikely to be challenged.
 - (iv) attend at a police station without the presence of a solicitor to advise a suspect or interviewee as to the handling and conduct of police interviews unless the barrister has complied with such training requirements as may be imposed by the Bar Standards Board in respect of such work.
 - (v) act as a supervisor for the purposes of section 84(2) of the Immigration and Asylum Act 1999.
 - (vi) Conduct in court any criminal proceedings in which the barrister has attended at a police station for any defendant in connection with those

proceedings or any associated proceedings unless the barrister reasonably believes that nothing said, done, heard or seen by the barrister at the police station might require him/her to give evidence in those proceedings.

Conduct of correspondence

401A.1 If instructed to do so, a self-employed barrister may conduct correspondence with other parties (in the form of letters, faxes, emails or the like) provided that the barrister:

- (a) is satisfied that it is in the lay client's best interests that the barrister does so and that he has adequate systems, experience and resources for managing appropriately such correspondence; and;
- (b) has adequate insurance cover in the event that the lay client suffers any loss arising from the conduct of the correspondence for which the barrister is responsible.

401A.2 Where a barrister conducts such correspondence and is aware that another party has a solicitor or barrister representing that party, the barrister must not correspond directly with that party.

Insurance

402.1 Every self-employed barrister (other than a pupil who is covered under his pupil supervisor's insurance) and a barrister called to the Bar under Regulation 78 of the Bar Training Regulations must be entered as a member with BMIF.

402.2 Every barrister entered as a member with BMIF shall:

- (a) pay immediately when due the appropriate insurance premium required by BMIF for the purpose of insurance against claims for professional negligence for such amount and upon such terms as may be approved by the Bar Council from time to time;
- (b) supply immediately upon being requested to do so such information as BMIF may from time to time require pursuant to its Rules.

Administration and conduct of self-employed practice

403.1 Except as permitted in paragraphs 403.2 and 403.3, a self-employed barrister must not share office facilities or other premises and must not practise in any association with any person other than a self-employed barrister or any of the following:

- (a) a registered European lawyer;
- (b) subject to compliance with the Foreign Lawyers (Chambers) Rules (reproduced in Annex H) and with the consent of the Bar Standards Board a foreign lawyer;
- (c) a non-practising barrister
- (d) a person who is:

- (i) a lawyer from a jurisdiction other than England and Wales;
- (ii) a retired judge; or
- (iii) an employed barrister

to the extent that that person is practising as an arbitrator or mediator.

403.2 A self-employed barrister:

May share office facilities or other premises with any person or persons (not falling within 403.1 above) and will not be treated as thereby practising in breach of rule 403.1, provided that:

- (i) there is complete separation of the services provided by the barrister and the services provided by any person with whom the barrister shares the office facilities or premises;
- (ii) nothing is done that might reasonably create the impression that there is any sharing of work, income or profits of the businesses;
- (iii) the barrister has effective arrangements in place to protect the confidentiality of clients' affairs;
- (iv) there is no general referral arrangement or understanding between the barrister and the person or persons with whom the barrister is sharing; and
- (v) prior notification in writing of the sharing, identifying the premises in question and the names and occupations of the persons or body with whom the barrister is sharing, has been given to the Bar Standards Board by the barrister.

403.3 The restrictions in paragraphs (i), (ii) and (iv) in paragraph 403.2 shall not apply where barristers share premises with any entity which is controlled by them and used as permitted for the purposes of and ancillary to their practice as self-employed barristers.

403.4 Where a self-employed barrister shares premises with other persons under paragraph 403.2, the barrister must keep available for inspection by the Bar Standards Board a record of any work or clients referred to the barrister by any such persons or referred to any such persons by the barrister, and of the reasons for any referral made by the barrister.

403.5 A self-employed barrister:

- (a) must take all reasonable steps to ensure that:
 - (i) his practice is efficiently and properly administered having regard to the nature of his practice;
 - (ii) proper records are kept;
 - (iii) he complies with the Terms of Work on which Barristers Offer their Services to Solicitors and the Withdrawal of Credit Scheme 1988 as amended and in force from time to time (reproduced in Annex G1) and

with any Withdrawal of Credit Direction issued by the Chairman of the Bar pursuant thereto.

- (b) must have ready access to library facilities which are adequate having regard to the nature of his practice;
- (c) must have regard to any relevant guidance issued by the Bar Council and Bar Standards Board including guidance as to:
 - (i) the administration of chambers;
 - (ii) pupillage and further training; and
 - (iii) good equal opportunities practice ~~in chambers in the form of the Equality and Diversity Code for the Bar.~~
- (d)
 - (i) must deal with all complaints made to him promptly, courteously and in a manner which addresses the issues raised; and
 - (ii) must have and comply with an effective written complaints procedure and make copies of the procedure available to a client on request; and
 - (iii) meet all the requirements set out in Annexe S to the Code.

Heads of chambers

404.1 The obligations in this paragraph apply to the following members of chambers:

- (a) any barrister who is head of chambers;
- (b) any barrister who is responsible in whole or in part for the administration of chambers;
- (c) if there is no one within (a) and (b) above, all the members of the chambers.

404.2 Any person referred to in paragraph 404.1 must take all reasonable steps to ensure that:

- (a) his chambers are administered competently and efficiently and are properly staffed;
- (b) the affairs of his chambers are conducted in a manner which is fair and equitable for all barristers and pupils;
- (c) proper arrangements are made in his chambers for dealing with pupils and pupillage and, in particular,
 - (i) that all pupillage vacancies are advertised in the manner prescribed by the Bar Council;
 - (ii) that such arrangements are made for the funding of pupils by chambers as the Bar Standards Board may by resolution from time to time require;

~~(iii) — that in making arrangements for pupillage, regard is had to the pupillage guidelines issued from time to time by the Bar Council and Bar Standards Board and to the Equality and Diversity Code for the Bar;~~

~~(d) — Proper arrangements are made in chambers for dealing with equal opportunity issues and in particular,~~

~~(i) — that Chambers appoint at least one Equal Opportunities Officer;~~

~~(ii) — that Chambers shall have a written Equal Opportunities~~

~~Policy made available to all members of Chambers and Staff and to the Bar Council and Bar Standards Board when required, which shall set out the policy adopted by Chambers in relation to each of the Action Areas in the Equality and Diversity Code for the Bar and shall have regard to the recommendations in the Code;~~

~~(iii) — that no barrister shall take pupils until the steps set out in (i) and (ii) above have been complied with.~~

(de) all barristers practising from his chambers whether they are members of the chambers or not are entered as members with BMIF and have effected insurance in accordance with paragraph 402 (other than any pupil who is covered under his pupil-master's insurance);

(ef) all barristers practising from his chambers comply with paragraph 403.5 (a)(iii);

(fg) all employees and staff in his chambers

(i) are competent to carry out their duties;

(ii) carry out their duties in a correct and efficient manner;

(iii) are made clearly aware of such provisions of this Code as may affect or be relevant to the performance of their duties; and

(iv) all complaints against them are dealt with in the manner set out in paragraph 403.5(d) above.

(gh) all registered European lawyers and all foreign lawyers in his chambers comply with this Code to the extent required by the Registered European Lawyers Rules (reproduced in Annex B) and the Foreign Lawyers (Chambers) Rules (reproduced in Annex H);

(hi) fee notes in respect of all work undertaken by all members of chambers and pupils and (unless expressly agreed with the individual) former members and pupils of chambers are sent expeditiously to clients and in the event of non-payment within a reasonable time, pursued efficiently.

(ij) every barrister practising from his chambers has a current practising certificate in accordance with paragraph 202(c) of the Code of Conduct and the Practising Certificate Regulations (reproduced in Annex D).

404.3 In carrying out the obligations referred to in paragraph 404.2 any person referred to in paragraph 404.1 must have regard to any relevant guidance issued by the Bar Council and Bar Standards Board including guidance as to:

- (a) the administration of chambers;
- (b) pupillage and further training; and
- (c) good equal opportunities practice in chambers ~~in the form of the Equality and Diversity Code for the Bar~~

Fees and remuneration

405 Subject to paragraph 307 a self-employed barrister may charge for any work undertaken by him (whether or not it involves an appearance in Court) on any basis or by any method he thinks fit provided that such basis or method:

- (a) is permitted by law;
- (b) does not involve the payment of a wage or salary.

406.1 A self-employed barrister who receives fees in respect of work done by another barrister must himself and without delegating the responsibility to anyone else pay forthwith the whole of the fee in respect of that work to that other barrister.

406.2 Subject to paragraph 805 a self-employed barrister who arranges for another barrister to undertake work for him (other than a pupil or a person who has asked to do the work in order to increase his own skill or experience) must himself and without delegating the responsibility to anyone else:

- (a) pay proper financial remuneration for the work done;
- (b) make payment within a reasonable time and in any event within three months after the work has been done unless otherwise agreed in advance with the other person.

Client money securities and other assets

407. A self-employed barrister must not receive or handle client money securities or other assets other than by receiving payment of remuneration.

Equality and Diversity

408 A self-employed barrister must take reasonable steps:

408.1 to ensure that in relation to their chambers:

- (a) there is in force a written statement of policy on equality and diversity; and
- (b) there is in force a written plan implementing that policy.

408.2 to ensure that their chambers complies with the following requirements:

Equality and Diversity Officer

- (a) Their chambers must have at least one Equality and Diversity Officer.

Training

- (b) From 1 January 2013, the member with lead responsibility for any committee or panel responsible for the selection of members of chambers, pupils, clerks or assessed mini-pupils and at least one member of the selection panel, who may be the same person, must have received recent and appropriate training in fair recruitment and selection processes, except in unforeseen and exceptional circumstances.
- (c) From 1 July 2014, save in exceptional circumstances, every member of all selection panels involved in the recruitment of tenants, pupils, clerks and assessed mini-pupils must be trained in fair recruitment and selection processes.

Fair and Objective Criteria

- (d) Their chambers' recruitment and selection processes must use objective and fair criteria.

Equality monitoring

- (e) Their chambers must regularly review:
- (i) the number and percentages of staff, barristers, pupils and assessed mini-pupils from different groups;
 - (ii) applications for assessed mini-pupillage, pupillage, staff and membership of chambers;
 - (iii) the allocation of unassigned work.

This review must include:

- (i) collecting and analysing data broken down by race, disability and gender;
- (ii) investigating the reasons for any disparities in that data; and
- (iii) taking appropriate remedial action.

Fair Access to work

- (f) The affairs of their chambers must be conducted in a manner which is fair and equitable for all members of chambers and pupils. This includes, but is not limited to, the fair distribution of work amongst pupils and members of chambers.

Harassment

- (g) Their chambers must have a written anti-harassment policy which must:
- (i) state that harassment will not be tolerated or condoned and that employees, members of chambers, pupils and others temporarily in chambers such as mini-pupils have a right to complain if it occurs;

- (ii) set out how the policy will be communicated;
- (iii) set out the procedure for dealing with complaints of harassment.

Parental leave

- (h) Their chambers must have a parental and adoption leave policy which covers:
 - (i) The right of a member of chambers to return to chambers after a specified period (which must be at least one year) of parental or adoption leave;
 - (ii) The extent to which a member of chambers is or is not required to contribute to chambers' rent and expenses during parental leave. This includes, but is not limited to, the method of calculation of any waiver, reduction or reimbursement of chambers' rent and expenses during parental leave;
 - (iii) The procedure for dealing with grievances under the policy;
 - (iv) Chambers' commitment to review regularly the effectiveness of the policy.

Rent

- (i) Where rent is paid on a flat rate basis, their chambers must offer members taking a period of parental leave, or leave following adoption, a minimum of 6 months free of chambers' rent.

Flexible Working

- (i) Their chambers must have a flexible working policy which covers the right of a member of chambers to take a career break, to work part time, to work flexible hours or to work from home to enable them to manage their family responsibilities or disability and remain in practice.

Reasonable Adjustments Policy

- (k) Their chambers must have a reasonable adjustments policy aimed at supporting disabled clients, barristers and visitors to chambers.

Appointment of Diversity Data Officer

- (l) Their chambers must have a Diversity Data Officer (DDO).
- (m) Their chambers must provide the name and contact details of the DDO to the Bar Standards Board (BSB) and must notify the BSB of any change to the identity of the DDO, as soon as reasonably practicable.

Responsibilities of Diversity Data Officer

- (n) The DDO shall comply with the requirements in relation to the collection, processing and publication of Diversity Data set out in the paragraphs (o) to (t) below.

Collection and Publication of Diversity Data

- (o) The DDO shall, , invite the Members of the Workforce to provide Diversity Data in respect of themselves to the DDO using the model questionnaire at Annex C of the BSB Guidance on these rules.
- (p) The DDO shall ensure that such data is anonymised and that an accurate and updated summary of it is published on chambers' website in the first instance by 31st December 2012 and thereafter every three years. If the chambers does not have a website, the DDO shall make such data available to the public on request.
- (g) The published summary of anonymised data shall:
- (i) exclude data relating to the characteristics of sexual orientation and religion or belief, unless there is consent from each of the Members of the Workforce; and
 - (ii) exclude diversity data in relation to any characteristic where there is a real risk that individuals could be identified, unless all affected individuals consent; and
 - (iii) subject to the foregoing, include anonymised data in relation to each characteristic, categorised by reference to the job title and seniority of the Members of the Workforce.
- (r) The DDO shall:
- (i) ensure that chambers has in place a written policy statement on the collection, publication, retention and destruction of Diversity Data which shall include an explanation that the provision of Diversity Data is voluntary;
 - (ii) notify the Members of the Workforce of the contents of the written policy statement; and
 - (iii) obtain explicit consent from individual Members of the Workforce to the provision and processing of their Diversity Data in accordance with the written policy statement and these rules, in advance of collecting their Diversity Data.
- (s) The DDO shall have effective systems and controls in place to ensure that any Diversity Data provided to the DDO is collected and held securely and in accordance with the Data Protection Act 1998.
- (t) The DDO shall take all reasonable steps to ensure that the Diversity Data is not shared with any third parties except as permitted under these rules.

409 For the purposes of rule 408, the steps which it is reasonable for a barrister to take will depend on all the circumstances, which include, but are not limited to:

- (a) the arrangements in place in their chambers for the management of chambers; and
- (b) any role which they play in those arrangements.

¹ paragraph 401(a) amended 25 January 2011

Part IX - Compliance

This section sets out the duty to inform the Bar Standards Board in the event of criminal convictions, bankruptcy etc and the duties concerning the complaints procedure.

901.1 Any failure by a barrister to comply with the provisions of paragraph 202 (a) to (d), 203(1)(a), 204(b), 402, 403.5(b)(c) and (d), 404, 405, 406, [408](#), 701, 709, 801(a), 804 or 905(a)(i), (d) or (e) of this Code (to the extent that the rule or rules in question apply to him, as to which see paragraphs 105A and 105C above¹⁾ or with the training requirements imposed by the Bar Training Regulations² in force at the date of his Call to the Bar or with the Continuing Professional Development Regulations or the Practising Certificate Regulations (other than paragraph 8 thereof)³ shall render him liable to a written warning from the Bar Standards Board and/or the imposition of a fixed financial penalty of £300 (or such other sum as may be prescribed by the Bar Standards Board from time to time) or any financial penalty prescribed by the said Regulations for non-compliance therewith. Liability under this paragraph is strict.

Part X - Definitions

This section contains the definition of terms used in the Code.

1001. In this Code except where otherwise indicated:

"the Act" means the Courts and Legal Services Act 1990 and where the context permits includes any orders or regulations made pursuant to powers conferred thereby;

"the Act of 1985" means the Administration of Justice Act 1985;

"the Act of 2007" means the Legal Services Act 2007;

"Adjudication Panel" means an adjudication panel constituted under the Adjudication and Appeals Rules (reproduced in Annex P);

"advocacy services" means advocacy services as defined in Section 119 of the Act;

"allocation of unassigned work" for the purposes of rule 408.2(e), includes, but is not limited to work allocated to:

- Pupils;
- Barristers of fewer than four years' standing; and
- Barristers returning from parental leave.

"Appointments Board" means the Board established by the Bar Council to make appointments to the Bar Standards Board and its regulatory committees;

"Approved Regulator" has the same meaning as in section 20(2) of the Act of 2007; 1

"authorised body" means a body that has been authorised by an approved regulator to practise as a licensed body or recognised body;

"authorised litigator" means an authorised litigator as defined in Section 119 of the Act;

"bankruptcy order" includes a bankruptcy order made pursuant to the Insolvency Act 1986 and any similar order made in any jurisdiction in the world;

"Bar" means the Bar of England and Wales;

"Bar Council" means The General Council of the Bar as constituted from time to time or a Committee thereof;

"barrister" means an individual who has been called to the Bar by one of the Inns of Court and who has not ceased to be a member of the Bar; and in Parts III (other than paragraph 301), VI, VII and VIII of this Code means a practising barrister;

"Bar Standards Board" means the Board established to exercise and oversee the regulatory functions of the Bar Council;

"Bar Training Regulations" means the Consolidated Regulations in respect of anything arising before 1st September 2009 and the Bar Training Regulations in respect of anything arising on or after 1st September 2009;

"BMIF" means Bar Mutual Indemnity Fund Limited;

"brief" means instructions to a barrister to appear as an advocate before a Court;

"Call" means Call to the Bar in accordance with the Bar Training Regulations;4

"chambers" means a place at or from which one or more self-employed barristers carry on their practices and also refers where the context so requires to all the barristers (excluding pupils) who for the time being carry on their practices at or from that place;

"client" means lay client or intermediary;

"Company" means a company regulated by an Approved Regulator;

"complaint" means an allegation by any person or by the Bar Standards Board of its own motion of professional misconduct or of inadequate professional service and includes a legal aid complaint;

"Complaints Commissioner" means the person appointed as such under Regulation 17A of the Bar Council Constitution;

"the Complaints Committee" means the Complaints Committee of the Bar Standards Board or its successor; 5

"conditional fee agreement" means a conditional fee agreement as defined in Section 58 of the Act;

"Consolidated Regulations" means the Consolidated Regulations of the Inns of Court;

"Court" includes any court or tribunal or any other person or body whether sitting in public or in private before whom a barrister appears or may appear as an advocate;

"Director" means a director of a company, and includes the director of an Authorised Body which is a company, and in relation to a *societas Europaea* includes:

(a) in a two-tier system, a member of the management organ and a member of the supervisory organ; and

(b) in a one-tier system, a member of the administrative organ;

"Disciplinary Tribunal" means a disciplinary tribunal constituted under the Disciplinary Tribunals Regulations (reproduced in Annex K);

"diversity data" means information relating to the following characteristics in respect of an individual:

- Age;
- Gender;
- Disability;

- Ethnic group;
- Religion or belief;
- Sexual orientation;
- Socio-economic background; and
- Caring responsibilities.

"employed barrister" means a practising barrister who is employed other than by an Authorised Body 6 either under a contract of employment or by virtue of an office under the Crown or in the institutions of the European Communities and who supplies legal services as a barrister in the course of his employment;

"employer" means a person by whom an employed barrister is employed as such and any holding subsidiary or associated company corporate body or firm of that person;

"English law" includes international law and the law of the European Communities;

"Establishment Directive" means Directive 98/5/EC of the European Parliament and of the Council of February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained;

"European lawyer" means a person who is a national of a Member State and who is authorised in any Member State to pursue professional activities under any of the professional titles appearing in article 2(2) of the European Communities (Lawyer's Practice) Order 1999, but who is not any of the following:

- (a) a solicitor or barrister of England and Wales or Northern Ireland; or
- (b) a solicitor or advocate under the law of Scotland.

"family responsibilities", for the purposes of rule 408.2(j), includes caring responsibilities for older, young, or disabled dependants or relatives;

"foreign lawyer" means a person (other than a registered European lawyer or a practising barrister of the bar of England and Wales) who is authorised by a competent professional body to practise in a system of law other than English law;

"harassment" means any form of unwanted conduct in relation to a relevant protected characteristic which has the effect or purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. A single incident may constitute harassment if it is sufficiently serious. The motive or intention of the perpetrator may be (but is not invariably) relevant.

"Hearings before the Visitors" means an appeal hearing constituted under the Hearings before the Visitors Rules 2005 (reproduced in Annex M);

"home professional body" means the body in a Member State which authorises a European lawyer to pursue professional activities under any of the professional titles appearing in article 2(2) of the European Communities (Lawyer's Practice) Order 1999 and, if he is authorised in more than one Member States, it shall mean any such body;

"home professional title" means, in relation to a European lawyer, the professional title or any of the professional titles specified in relation to his home State in article 2(2) of the European Communities (Lawyer's Practice) Order 1999 under which he is authorised in his home State to pursue professional activities;

"home State" means the Member State in which a European lawyer acquired the authorisation to pursue professional activities under his home professional title and, if he is authorised in more than one Member State, it shall mean any such Member State;

"inadequate professional service" means such conduct towards a lay client or performance of professional services for that client which falls significantly short of that which is to be reasonably expected of a barrister in all the circumstances;

"incorporated solicitors' practice" means a body recognised under section 9 of the Act of 1985;

"indictable offence" carries the definition set out in the Serious Organised Crime and Police Act 2005 as defined in Schedule 1 of the Interpretation Act 1978 as "an offence which, if committed by an adult is triable on indictment whether it is exclusively so triable or triable either way";

"Informal Hearing Panel" means an informal hearing panel constituted under paragraph 43 of the Complaints Rules (reproduced in Annex J);

"instructions" means instructions or directions in whatever form (including a brief) given to a practising barrister to supply legal services whether in a contentious or in a non-contentious matter and "instructed" shall have a corresponding meaning;

"Interim Suspension Panel" means a panel constituted under the Interim Suspension Rules (reproduced in Annex N);

"intermediary" means any person by whom a self-employed barrister is instructed on behalf of a lay client and includes a professional client who is not also the lay client;

"International work" shall have the meaning set out in the International Practice Rules (reproduced in Annex A);

"investigating" for the purposes of rule 408.2(e) means considering the reasons for disparities in data such as:

- Under- or over-representation of particular groups, e.g. men, women, different ethnic groups or disabled people;
- Absence or particular groups, e.g. men, women, different ethnic groups or disabled people;
- Success rates of particular groups;
- Over- or under-allocation of unassigned work to particular groups.

"JRC" means the Joint Regulations Committee of the Bar Council or any successor body exercising the same responsibilities by whatever name called;

"lay client" means the person on whose behalf a practising barrister (or where appropriate in the case of an employed barrister his employer) is instructed;

"lay member" means a lay person appointed by the Appointments Board to be a member of the Bar Standards Board or one of its regulatory committees;⁸

"lay representative" means either

(a) a lay person appointed by the President of the Council of the Inns of Court to serve on Disciplinary Tribunals, Summary Procedure Panels, Informal Hearings Panels, Interim Suspension Panels and Appeal Panels therefrom, Adjudication Panels, Adjudication Appeal Panels and Medical Panels and Review Panels therefrom; or

(b) a lay person appointed by the Lord Chief Justice to serve on Hearings before the Visitors

save that no person may be appointed as a lay representative:

(i) if they are a member of the Complaints Committee or of the Bar Standards Board or any of its other Committees; or

(ii) if they were a member of the Complaints Committee at any time when the matter which the Tribunal or panel is dealing with was considered by the Complaints Committee.

"legal aid complaint" shall mean a complaint so described in section 40 of the Act of 1985 as amended by the Access to Justice Act 1999;

"Legal Advice Centre" means a centre operated by a charitable or similar non-commercial organisation at which legal services are habitually provided to members of the public without charge (or for a nominal charge) to the client and:

(a) which employs or has the services of one or more solicitors pursuant to rules 13.04 and 13.09 of the Solicitors Code of Conduct 2007 or for whom the Solicitors Regulation Authority has granted a waiver, or

(b) which has been and remains designated by the Bar Standards Board as suitable for the employment or attendance of barristers subject to such conditions as may be imposed by the Bar Council or Bar Standards Board in relation to insurance or any other matter whatsoever;

"legal services" includes legal advice representation and drafting or settling any statement of case witness statement affidavit or other legal document but does not include:

(a) sitting as a judge or arbitrator or acting as a mediator;

(b) lecturing in or teaching law or writing or editing law books articles or reports;

- (c) examining newspapers, periodicals, books, scripts and other publications for libel, breach of copyright, contempt of court and the like;
- (d) communicating to or in the press or other media;
- (e) exercising the powers of a commissioner for oaths;
- (f) giving advice on legal matters free to a friend or relative or acting as unpaid or honorary legal adviser to any charitable benevolent or philanthropic institution;
- (g) in relation to a barrister who is a non-executive director of a company or a trustee or governor of a charitable benevolent or philanthropic institution or a trustee of any private trust, giving to the other directors trustees or governors the benefit of his learning and experience on matters of general legal principle applicable to the affairs of the company institution or trust;

"Legal Services Commission" means a body established by or under Section 1 or Section 2 of the Access to Justice Act 1999 and includes any body established and maintained by such a body;

"Licensed Access client" means a person or organisation approved as such by the Bar Standards Board in accordance with the Licensed Access Recognition Regulations (reproduced in Annex F);

'licensed body' means a body licensed by a licensing authority, other than the Bar Standards Board, under Part 5 of the LSA.

"litigation services" means litigation services as defined in Section 119 of the Act;

"LLP" means a limited liability partnership formed by being incorporated under the Limited Liability Partnerships Act 2000;

"Manager" means a barrister who is: 10

- (a) a partner in a partnership;
- (b) a member of an LLP; or
- (c) a director of a company

which is an Authorised Body;

"Mediation" mediation is a process whereby the parties to a dispute appoint a neutral person (mediator) to assist them in the resolution of their dispute;

"Medical Panel" means a panel constituted under the Fitness to Practise Rules (reproduced in Annex O);

"Member State" means a state which is a member of the European Communities;

"members of the workforce" in respect of a chambers will include barristers, pupils, clerks and staff;

"non-practising barrister" means a barrister who is not a practising barrister;

"the Professional Conduct and Complaints Committee" or "PCC" means the Professional Conduct and Complaints Committee of the Bar Council or any successor body exercising the same responsibilities by whatever name called;

"owner" in relation to a body means a person with any ownership interest in that body;

"parental leave" means leave taken by the main carer of a child preceding or following birth or adoption. This could be the mother, father or adoptive parent of either sex;

"partner" means a person who is or is held out as a partner in an unincorporated firm;¹³

"partnership" means an unincorporated partnership, and includes any unincorporated firm in which persons are or are held out as partners, but does not include an LLP;¹³

"practising barrister" means a barrister who is practising as such within the meaning of paragraph 201;

"the President" means the President of the Council of the Inns of Court;

"professional client" means a solicitor with a current practising certificate or other professional person by whom a self-employed barrister is instructed that is to say:

(a) solicitors' firm, LLP or company, Authorised Body regulated by the Solicitors Regulation Authority¹³ or other approved regulator, authorised litigator, Parliamentary agent, patent agent, European Patent Attorney, trade mark agent, Notary or a European lawyer registered with the Law Society of England and Wales;

(b) a licensed conveyancer in a matter in which the licensed conveyancer is providing conveyancing services;

(c) an employed barrister or registered European lawyer;

(d) any practising barrister or registered European lawyer acting on his own behalf;

(e) a foreign lawyer in a matter which does not involve the barrister supplying advocacy services;

(f) a Scottish or Northern Irish Solicitor

(g) the representative of any body (such as a Legal Advice Centre or Pro Bono or Free Representation Unit) which arranges for the supply of legal services to the public without a fee, and which has been and remains designated by the Bar Standards Board (subject to such conditions as may be imposed by the Bar Council or Bar Standards Board in relation to insurance or any other matter whatsoever) as suitable for the instruction of barristers, and which instructs a barrister to supply legal services without a fee;

"professional misconduct" shall bear the meaning given in paragraphs 901 and 902;

"the public" includes any lay client of a practising barrister (or in the case of an employed barrister of the barrister's employer) other than any of the persons referred to in Paragraph 501;

"public access instructions" means instructions given to a barrister by or on behalf of a lay client pursuant to paragraph 401(a)(iii);

"the Qualifications Committee" means the Qualifications Committee of the Bar Standards Board or its successor;

"the Quality Assurance Committee" means the Quality Assurance Committee of the Bar Standards Board or its successor;

"Recognised Body" means a partnership, LLP, company or sole principal authorised to provide reserved legal services by an Approved Regulator other than the Bar Standards Board other than a licensable body as defined in s.72 of the Act of 2007 but does not include a body which is deemed to be authorised by reason of s.18(3) of the Act of 2007;

"registered European lawyer" means a European lawyer registered as such by the Bar Council and by an Inn in accordance with Annexe B;

"regular review" for the purposes of rule 408.2 (e) means as often as is necessary in order to ensure effective monitoring and review takes place. In respect of data on pupils it is likely to be considered reasonable that "regularly" should mean annually. In respect of tenants, due to the static nature of the numbers, it is likely to be considered reasonable that "regularly" should mean every three years;

"relevant criminal offence" means any criminal offence committed in any part of the world except:

(a) an offence committed in the United Kingdom which is a fixed penalty offence for the purposes of the Road Traffic Offenders Act 1988 or any statutory modification or replacement thereof for the time being in force;

(b) an offence committed in the United Kingdom or abroad which is dealt with by a procedure substantially similar to that applicable to such a fixed penalty offence; and

(c) an offence whose main ingredient is the unlawful parking of a motor vehicle;

"remedial action" for the purposes of rule 408.2 (e) means any action aimed at removing or reducing the disadvantage experienced by particular groups;

"right of audience" means a right of audience as defined in Section 119 of the Act;

"right to conduct litigation" means a right to conduct litigation as defined in Section 119 of the Act;

"selection panel" for the purposes of rule 408.2 (b) and (c) means any panel formally tasked with the final decision on recruitment or selection of pupils, clerks, mini-pupils or tenants;

"self-employed barrister" means a practising barrister other than :-

- (a) a barrister who is a manager or employee of a Authorised Body; and
- (b) an employed barrister acting in the course of his employment;

"solicitor" means a solicitor of the Supreme Court of England and Wales;

"the Standards Committee" means the Standards Committee of the Bar Standards Board or its successor; 8

"Summary Procedure Panel" means a panel constituted under the Summary Procedure Rules (reproduced in Annex L);

"trade association" means a body of persons (whether incorporated or not) which is formed for the purpose of furthering the trade interests of its members or of persons represented by its members, and does not include any association formed primarily for the purpose of securing legal assistance for its members;

"training" for the purposes of rule 408.2 (b) and (c) means any course of study covering all the following areas:

- Fair and effective selection & unconscious bias;
- Selection criteria and assessment methods;
- Attraction and advertising;
- Application processes;
- Shortlisting skills;
- Interviewing skills;
- Assessment and making a selection decision;
- Monitoring and evaluation.

Training may be undertaken in any of the following ways:

- Classroom sessions;
- Online sessions;
- Private study of relevant materials such as the BSB Recruitment Toolkit for chambers.
- Completion of CPD covering fair recruitment and selection processes

any reference to the masculine shall be deemed to include the feminine and any reference to the singular shall include the plural.

