

## INTERIM Equality Analysis (EA)

Date of Assessment	April 2014.
Assessor Name & Job Title	Ewen Macleod, BSB Head of Regulatory Policy.
Name of Policy/Function to be Assessed	Entity Regulation.
Aim/Purpose of Policy	<p>The Legal Services Act 2007 (the 2007 Act) establishes a new statutory regime for the regulation of persons and entities to carry out reserved legal activities and other activities.</p> <p>The BSB took the decision in November 2009 that barristers should be permitted to practice as managers of entities. A number of barristers are already managers/owners of Solicitors Regulation Authority (SRA) and Council for Licensed Conveyancers (CLC) regulated entities.</p> <p>The BSB Entity Regulation Programme Board was set up to establish the extent to which BSB regulation of entities would meet the regulatory objectives set out under the 2007 Act; the basis under which it should become an entity regulator (including the scope and extent of that regulation), and the design and implementation of the new entity regulation regime.</p> <p>Proposed changes:</p> <p>On 28 April 2011 the working group tasked with reviewing the consultation responses made a number of recommendations to the Board. After discussion, the Board took the decision that it would be in the public interest to regulate advocacy focused ABS and non-ABS entities, but Multi Disciplinary Practices would not be regulated. Please note that this equality analysis only refers to non-ABS entities, as the BSB will be applying to the LSB to become a Licensing Authority of ABS entities at a later date.</p> <p>As the BSB's entity regulation policy statement details, our overall policy objectives are that:</p> <p><i>The market should have the opportunity to develop, with authorised persons being able to innovate in ways that are compatible with the regulatory objectives and the associated risks being managed effectively and proportionately;</i></p> <p><i>As business models change, the specialist skills and expertise associated with the Bar should be preserved and standards of advocacy should be maintained, thereby safeguarding the public interest;</i></p> <p><i>Individual responsibility (in particular the accountability of the individual advocate or other authorised individual to the Court and the client) should be at the heart of the regulation of advocacy and related services;</i></p> <p><i>Regulatory arbitrage is minimised;</i></p>

*The BSB should build on its regulation of individual barristers to give entities the option of being regulated by the BSB, particularly those wanting to specialise in advocacy and litigation;*

*The BSB minimises the risk of regulatory failure by regulating only those entities that fit well with its capacities and capabilities, ensuring that entities and their managers consent to the jurisdiction of the BSB;*

*Risk assessment and management should be at the heart of the BSB's regulatory arrangements;*

*Entities which the BSB authorises should manage their own risks well and comply with their regulatory obligations;*

*The BSB regulatory regime is proportionate to the risks it needs to regulate.*

The entity regulation policy statement also details the BSB's approach:

1. *The BSB has developed its policy on what entities it would be appropriate for it to regulate in the light of [the policy] objectives. In exercising its discretion, the BSB will be sensitive to developments in the market and innovative practices that might be in clients' interests and which might differ from the type of entity described below. In such cases, the BSB will assess the risks posed by the entity in question and decide whether it is in the public interest for the BSB rather than another Approved Regulator to authorise such an entity.*
2. *[The] policy statement reflects the BSB's decision that it should be a niche regulator concentrating on those entities whose activities are similar to those traditionally undertaken by the Bar (and which the BSB therefore has experience of regulating), which do not hold client money, whose structure is simple and transparent, with work being closely overseen by authorised individuals and minimal risk of divergent interests between owners and managers. As both the BSB and those it regulates gain experience, and as the market develops, the BSB will consider whether it would be in the public interest for it to widen the scope of its entity regulation and if so it will publish a revised policy statement.*
3. *The BSB's risk framework...will be central to any decision to authorise an entity and to the BSB's approach to ongoing supervision of the entity. The BSB will assess the nature of the risks posed by an entity, taking into account its structure and governance arrangements, the kind of the services it is intending to provide, its impact on the wider legal services market and its own risk assessment and mitigation procedures.*
4. *The BSB would normally only authorise an entity if:*
  - a. *any owner<sup>1</sup> of the entity is also a manager;*
  - b. *the entity will not be providing any services other than legal activities<sup>2</sup>, subject to any minor or incidental*

<sup>1</sup> Owner as defined in the BSB Handbook as person who holds a material interest in the entity.

<sup>2</sup> Defined as reserved legal activity and any other activity which consists of the provision of legal advice or assistance in connection with the application of the law or with any form of resolution of

	<p><i>examples of other activities which are carried on in the course of supplying the main service and do not materially detract from the focus being legal activities.</i></p> <ol style="list-style-type: none"> <li>5. <i>There may be exceptional circumstances where the BSB would authorise an entity that is not able fully to satisfy the criteria in paragraph [7] but, in the BSB's judgment, poses similar risks to those posed by entities which do satisfy the criteria.</i></li> <li>6. <i>When assessing the risks associated with an entity, the BSB will also take other factors into account, including:</i> <ol style="list-style-type: none"> <li>a. <i>the services that the entity intends to provide and the nature and extent of any non-reserved activities;</i></li> <li>b. <i>the proposed proportion of managers to employees;</i></li> <li>c. <i>the proposed proportion of authorised individuals to non-authorised individuals;</i></li> <li>d. <i>the extent to which its managers have been and/or are going to be actively involved in advocacy and/or litigation services or related advice;</i></li> <li>e. <i>whether any persons with an ownership interest (whether material or not) are not individuals;</i></li> <li>f. <i>whether any managers are not individuals;</i></li> <li>g. <i>whether the entity is intending to provide high-volume, standardised legal advice or standardised legal transactional services direct to lay clients and, if so, whether this is likely to constitute a substantial or significant proportion of its practice; and</i></li> <li>h. <i>the systems that the entity will have in place to manage such services and associated risks.</i></li> </ol> </li> <li>7. <i>The following factors, when present, would tend to indicate that it may be appropriate for the BSB to regulate an entity:</i> <ol style="list-style-type: none"> <li>a. <i>all owners and all managers are individuals;</i></li> <li>b. <i>50% or more of the owners and 50% or more of the managers are entitled to exercise rights of audience in the Higher Courts;</i></li> <li>c. <i>a substantial part of the services to be provided are advocacy and/or litigation services and expert legal advice;</i></li> <li>d. <i>the entity is not intending to provide high-volume, standardised legal transactional services;</i></li> <li>e. <i>75% or more of owners and 75% or more of managers are authorised individuals<sup>3</sup>;</i></li> <li>f. <i>a substantial proportion of employees are going to be authorised individuals; and</i></li> <li>g. <i>each manager supervises only a small number of employees.</i></li> </ol> </li> <li>8. <i>The following factors, when present, would tend to indicate that it may not be appropriate for the BSB to regulate an entity:</i> <ol style="list-style-type: none"> <li>a. <i>not all owners and managers are individuals;</i></li> <li>b. <i>fewer than 50% of owners and fewer than 50% of managers are entitled to exercise rights of audience in the Higher Courts;</i></li> </ol> </li> </ol>
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legal disputes or the provision of representation in connection with any matter concerning the application of the law or any form of resolution of legal disputes, and includes activities of a judicial or quasi-judicial nature (including acting as a mediator and other forms of alternative dispute resolution) and legal academic work such as lecturing.

<sup>3</sup> Only relevant to ABSs.

- c. *the provision of specialist advocacy and/or litigation services or other expert legal advisory services is not a significant proportion of the proposed practice;*
  - d. *a substantial part of the services to be provided are high-volume, standardised legal transactional services direct to lay clients;*
  - e. *fewer than 75% of owners and 75% of managers are authorised individuals<sup>4</sup>; and*
  - f. *a substantial proportion of employees will be non-authorised individuals.*
9. *The factors listed above are not exhaustive of the matters that may be relevant to the BSB's consideration of the appropriateness of an entity for BSB regulation. In each case, the BSB retains a discretion to grant or refuse authorisation in the light of its overall consideration of the risks posed by the entity, the regulatory objectives and the BSB's policy objectives.*
10. *In particular, even if the factors listed in paragraph [7] are present, the BSB may refuse authorisation if its analysis of the risks posed by the entity indicate that it may not be appropriate for BSB regulation. In making this decision it will take into account not only the extent to which the entity has assessed its own risks and put in place appropriate systems to manage those risks, but also whether the BSB itself has the necessary experience and skills to regulate the entity effectively.*

#### **Management and compliance**

11. *Rules S101 and S102 set out the aspects of management, control and compliance about which the BSB must be satisfied before granting authorisation. In exercising its discretion under these rules, the BSB will consider whether the arrangements are satisfactory for the nature and type of business which the applicant intends to provide. If the BSB concludes that the minimum requirements are satisfied and that it should therefore authorise the applicant, it will take account of its conclusions about the strength of the controls and management in its assessment of the risks posed by the entity and hence the future monitoring and supervision arrangements which would be appropriate.*
12. *In considering whether a person meets the suitability criteria despite having disclosed an event which might call that suitability into question, the BSB will have regard to when that event took place and any evidence about subsequent behaviour. The test it will normally apply is whether the person is currently suitable for the role concerned and whether it and the public can have confidence in that person in that role.*

The new Code of Conduct in the BSB Handbook introduces duties for BSB regulated entities and the managers and BSB regulated persons who work in them. In addition there are specific duties provided for in relation to the Head of Legal Practice (HOLP) and/or the Head of Finance and Administration (HOFA). The HOLP in particular is required to take all reasonable steps to:

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<sup>4</sup> Only relevant to ABSs.

	<ul style="list-style-type: none"> <li>• Ensure compliance with the terms of the entity's authorisation (and report any failure to do so to the BSB);</li> <li>• Ensure that the entity and all of the employees and managers who are BSB regulated persons comply with duties imposed by s176 of the LSA and that any non-authorised persons comply with their duties under s90 (and report any failure to do so to the BSB).</li> </ul> <p>The Code also imposes a duty on the entity and its managers to ensure that all employees are made aware of the requirements of the BSB Handbook, insofar as it is applicable to them; and do nothing which causes or substantially contributes to a breach of the BSB Handbook by the entity, its managers or the BSB regulated persons employed by it.</p>
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## 1. Evidence

<p>What evidence will you use to assess impact on equality?</p>
<p>A survey was undertaken by YouGov on behalf of the BSB in July 2010 to gauge interest in the regulation of new business structures. A consultation exercise (<i>Regulating Entities: The Legal Services Act 2007 Implications for the Bar of England and Wales</i>) which invited responses from the entire Bar, was conducted in September 2010. The consultation asked specific questions regarding the impact on equality and diversity of an entity regulation scheme, namely:</p> <ul style="list-style-type: none"> <li>• <i>Would prohibiting BSB regulated entities from providing reserved instrument activities or probate services have any impact from people of different ethnic groups, men and women or disabled people?</i></li> <li>• <i>What equality and diversity implications will recouping set up costs from the whole profession (by way of an increase in the practising certificate fee) have on people from different ethnic groups, men and women or disabled people?</i></li> <li>• <i>Would setting a 10% maximum for non-lawyer ownership of ABSs as opposed to 25% have any impact on equality and diversity?</i></li> <li>• <i>Are there likely to be any negative consequences for people from different ethnic groups, men and women or disabled people arising from the BSB's proposals to regulate entities? If so, how could these be mitigated?</i></li> </ul> <p>There were approximately 20 responses (out of 1,913 from barristers and 141 from clerks) which made specific comment or raised concerns about the four equality and diversity questions. The majority of the responses were in respect of the equality and diversity implications in recouping the costs of setting up the entity regulation scheme. It was suggested that recouping the costs from the profession as a whole would unfairly burden the lowest earners at the Bar, and may have a disproportionate indirect effect on those at the junior Bar and those who do a large proportion of publicly funded work, which tends to include BME barristers, women and disabled people. There was particular concern that recovering the set up costs across the profession would have an adverse impact on those earning less, the junior Bar or those working part-time or flexibly. These groups tend to include a higher proportion of women, disabled and BME barristers.</p> <p>In addition, the Biennial Survey of the Bar 2013 is the second Biennial Survey of barristers' working lives conducted on behalf of the Bar Council and BSB. As in 2011, half of all practising barristers</p>

(7,406) were surveyed, using a combination of e-mail and postal invitations. A total of 3,276 usable returns were received, representing a response rate of 44%. When tested for factors such as gender, employed or self-employed status, and time since Call to the Bar, the response proved to be representative of barristers as a whole.

The Biennial Survey shows that overall, 21% of barristers are considering 'maybe' setting up or joining in a BSB-regulated entity, with those working in the family and criminal practice areas being most likely to do so. A 'barrister only entity' is the most popular type of entity being considered, with 34% of family barristers and 26% of criminal barristers thinking they may opt for this in the future.

With regard to barrister only entities, BME barristers were more likely to have possible plans than were white barristers (29% and 21% respectively). Barristers with a disability or long-term health problem were also more likely than non-disabled barristers (28% and 22% respectively), and barristers who shared responsibility for childcare were more likely than other barristers to have possible plans (28% compared with 21%).

There were some significant differences in views on working life between those with possible plans regarding barrister-only entities and those with no plans to set up or join such an entity. Those with possible plans gave much lower scores for the pressure, pay and career factors than did those without possible plans, suggesting that dissatisfaction with their current working life may drive possible plans for setting up or joining an entity.

With regard to entities with barristers and other lawyers as owners/managers, ethnicity was significant, with 29% of BME barristers having possible plans regarding barrister/lawyer entities compared with 17% of white barristers. Childcare responsibility was also significant, with barristers with shared responsibility being most likely to have possible plans (23%) and those without dependent children being least likely (17%).

Barristers who have possible plans to set up or join a barrister/lawyer entity gave significantly lower scores for all six working lives factors than did those without plans regarding barrister/lawyer entities. The differences were most marked for pay and career progression (2.71 compared with 3.17), the workload, stress and work-life balance factor (2.90 compared with 3.15) and the overall career satisfaction and pride factor (3.32 compared with 3.57), which suggests barristers who are dissatisfied with their pay, workload and career direction may be planning to join an entity in the hope of better working conditions.

Possible plans for barrister/lawyer entities are associated with experiences or observations of bullying, harassment, or discrimination at work – 26 per cent of those who had personally experienced discrimination, 26 per cent of those who had observed discrimination, and 24 per cent of those who had observed bullying or harassment had possible plans.

## 2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

General	<p><u>Access to Justice</u></p> <p>Access to justice for all consumers may be improved through removing current barriers and enabling consumers to contract with entities direct. Competition between entities may drive down costs and lead to more competitive pricing between entities, which could be of financial benefit to consumers.</p> <p><u>Financial Impact</u></p> <p>The 2010 <i>Regulating Entities</i> consultation revealed a fear that an increase in practising certificate fees across the whole profession, to fund the entity regulation scheme, could adversely affect lower-earning barristers or those working on a part-time or flexible basis. These working practices tend to correlate with female barristers, BME barristers, older and disabled barristers. With regard to entity regulation the BSB feels that it is reasonable for the profession as a whole to fund the initial set up costs and this principle was agreed and implemented by the Bar Council in its capacity of Approved Regulator some time ago. This is because all barristers will have the right to take advantage of the entity regulation regime in due course and much of the development work (particularly relating to the BSB’s capacities and capabilities) is of wider relevance as the BSB seeks to develop and modernise its regulatory processes. In addition, there are possible benefits and opportunities to particular groups (as identified throughout the equality analysis).</p> <p>The BSB will in due course also consult on its authorisation and application fees. If any disproportionate impact is identified when we consult on the fees, action will be taken to address this.</p> <p><u>Cab Rank Rule</u></p> <p>Four respondents to the <i>Regulating Entities</i> consultation made specific comment on the equality implications of the proposals in relation to the cab-rank rule. All felt that the cab-rank rule has positive implications for BME groups, women and disabled clients. One respondent commented that it was of particular importance for disabled people as they “<i>frequently have to rely on the willingness of individual barristers to act in cases which are not highly lucrative, but which play an important role in achieving equal access to justice</i>”. By maintaining the cab-rank rule in relation to named advocates within entities, the BSB believes that the access to justice for BME, female and disabled consumers will be protected (in fact, it is possible that the cab rank rule will now apply to solicitor advocates within BSB regulated entities, so the benefits of the cab rank rule may be extended further).</p> <p><u>Working Life</u></p> <p>The BSB believes that by forming an entity as owners/managers, all barristers may have more control over their working patterns. They may also enjoy the financial benefits or security that could be offered by the pooling of resources and limitation of liability that is possible in an entity structure.</p>
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Equality and Diversity Rules

It is important to note that as part of the authorisation process, every application will be risk assessed with regard to the likelihood of “entities failing to comply with equality and diversity requirements in relation to staff”. Barristers in entities will also need to comply with the Equality and Diversity Rules of the Code of Conduct in the BSB Handbook, just as self-employed barristers in Chambers must comply with these rules. The rules state that barristers in entities will need to take reasonable steps to ensure there is in force a written statement of policy on equality and diversity, and there is in force a written plan implementing that policy. Furthermore, barristers in entities will need to take reasonable steps to ensure that the following requirements are complied with:

- Entities must appoint at least one Equality and Diversity Officer, one of whose responsibilities is to ensure compliance with the Equality and Diversity Rules;
- Save in exceptional circumstances, every member of all selection panels must be trained in fair recruitment and selection processes;
- Recruitment and selection processes must use objective and fair criteria;
- Entities must conduct a regular review of their policy on equality and diversity and of its implementation, in order to ensure that it complies with the Equality and Diversity Rules;
- Entities must take any appropriate remedial action identified in the light of that review;
- Entities must have a written anti-harassment policy;
- Entities must have a flexible working policy which covers the rights of managers and employees to take a career break, to work part-time, to work flexible hours, or to work from home, so as to enable them to manage their family responsibilities or disabilities without giving up work;
- Entities must appoint a Diversity Data Officer, whose responsibility is to ensure compliance with the Equality and Diversity Rules in relation to the collection, processing and publication of diversity data.

Entities will also need to have reasonable adjustments policies aimed at supporting not only their workforces, but disabled clients and others including temporary visitors.

Finally, the BSB will supervise entities by reference to a number of risks. In terms of specific entity risks, one of the risks it will focus on will be entities failing to comply with equality and diversity requirements.

Risk Assessment

Risk assessment of entities will potentially place a greater regulatory burden on certain practice areas if these are deemed to present higher regulatory risk.

	<p>There is therefore a risk that areas (such as criminal, family or immigration) which attract a higher risk rating contain a higher proportion of BME or female practitioners and as such our authorisation and subsequent supervision activity may have a disproportionate impact on these groups. The BSB analysed the impact when introducing risk-based supervision for chambers – as the risk areas are broadly similar to those identified for chambers, it is likely that the impact will be similar. Such disproportionate impact can largely be justified in the public interest but ongoing monitoring and consultation by the supervision department will seek to ensure that individuals are treated fairly and proportionately. If any particular group is over-represented in the higher risk banding this will be investigated to ensure that no policies or processes are indirectly discriminatory. This will also be revisited in the final Equality Analysis, which will include an assessment of the application processes.</p>
Race	<p><u>Representation</u></p> <p>The Biennial Survey of the Bar 2013 shows that 10% of the Bar are BME. As BME barristers are disproportionately overrepresented in sole practitioner numbers the introduction of entities could potentially compound this disparity – sole practitioners and small Chambers may not necessarily survive due to market competition (albeit there is the possibility that forming one-person entities would be attractive to sole practitioners).</p> <p>There is the potential for increased competition to drive sole practitioners out of business which in turn may reduce the choice available to consumers. Although the encouragement of fewer larger suppliers of legal services could create opportunities for BME practitioners, it is also possible that the reduction in smaller niche providers could disproportionately indirectly affect BME barristers, who traditionally operate from smaller Chambers or as sole practitioners. The impact of entity regulation in this area will be monitored for its impact on the market via the BSB’s risk framework.</p> <p><u>Public Access</u></p> <p>According to the Biennial Survey, criminal law is the main area of practice covering just under a third (31%) of all barristers. . Many BME barristers work primarily in areas of practice which are predominantly publicly funded. Barristers who undertake immigration work (contained within the civil practice broad group) are more likely to be from BME backgrounds (36%). Entity regulation may therefore offer the possibility of increasing public access via competition in the legal services market at a time when legal aid is being cut, thereby presenting consumers with increased choice and the option of consulting a barrister direct and cutting out the intermediary solicitor. The option of developing new ways of working may also assist barristers to obtain legal aid contracts. The BSB considers that this is likely to have a positive impact on this group.</p> <p><u>Working Life</u></p> <p>The Biennial Survey also showed that BME respondents reported bullying, harassment and discrimination was more prevalent at the employed as</p>

	<p>opposed to the self-employed Bar. In 2013, one in four BME barristers (25%) report personal experiences of bullying, harassment or discrimination, compared with 12% of white barristers. Differences are more marked in the self-employed Bar where 23% of BME barristers report such personal experiences compared with 10% of white barristers, but the difference in the employed Bar is still stark (31% of BME barristers report such personal experiences compared with 21% of white barristers). Entity regulation could potentially increase the number of employed barristers.</p>
Gender	<p>The BSB believes that the entity regulation scheme will present women barristers with additional opportunities. In the Biennial Survey, respondents were asked to indicate the two most important reasons to them as to why they chose their areas of practice. Women, across all areas of practice, are more likely to say that flexible working/availability of part-time working was an important reason to them (6% compared with 1% of men).</p> <p>Female barristers are also significantly more likely than their male colleagues to report having experienced bullying, harassment or discrimination, both overall and within each practice area. Across all respondents, 22% of women report such personal experiences compared with 9% of men. Around a quarter of female barristers in the criminal, civil and international/EU/other practice areas report personal experiences of bullying, harassment or discrimination. Gender differences are much stronger in the self-employed Bar, where 21% of women report such personal experiences compared with 7% of men; in the employed Bar the corresponding figures are 24% and 21% respectively.. The BSB considers that the possibility of starting up an entity either as a sole practitioner or with other barristers may offer female barristers more choice as to the way in which they work and therefore may promote equality.</p> <p>36% of female barristers indicated in their survey response that their main area of practice is criminal law. Entity regulation would therefore offer the possibility of increasing public access via competition in the legal services market at a time when legal aid is being cut; thereby presenting consumers with increased choice and the option of consulting a barrister direct and cutting out the intermediary solicitor. The BSB considers that this is likely to have a positive impact on female barristers.</p> <p>The Biennial Survey also established that among self-employed barristers, receiving 90% or more of fees from publicly funded work is associated with decreased earnings. This correlates to changes to the Legal Aid scheme and government policy of cutting public spending. The BSB considers that the opportunities afforded by working in new ways may make it easier for criminal barristers to obtain legal aid contracts, and consequently there would be benefit for women barristers.</p>
Disability	<p><u>Access to Justice</u></p> <p>Disabled consumers could benefit from entity regulation due to the convenience offered by accessing services from a “one stop shop”. The new changes could also lead to an increased choice of providers.</p>

	<p>In contrast, the possible migration of some sole practitioners into an entity with other barristers may reduce the access opportunities for vulnerable people (e.g., some disabled consumers) as it may be difficult for them to access face to face meetings due to access to public transport and mobility issues. Alternative methods of conducting business, such as telephone interviews, video conferencing via the telephone or visiting clients in person may address this issue.. In addition, it is important to emphasise that entities will need to have reasonable adjustments policies aimed at supporting disabled clients and others including temporary visitors.</p> <p>Furthermore, many disabled people are economically disadvantaged. The Bar Council Disability Sub Group indicated concerns that entities which operate with a view to maximise business returns may be less inclined to deal with disabled or vulnerable clients, due to the increased level of support such clients may require (e.g., home visits, paper transcription, reasonable adjustments etc.). These are costs that an entity cannot legally pass on directly to the individual client. However the BSB is not aware of any evidence that entities are less inclined to help disabled people than self-employed practitioners.</p> <p>In the <i>Regulating Entities</i> consultation, only four respondents made specific responses to the question; “<i>Are there likely to be any negative consequences for people from different ethnic groups, men and women or disabled people arising from the BSB’s proposals to regulate entities?</i>” However, it was suggested that regulating entities could have a negative impact on disabled people as entities could be under a duty to maximise financial security. There may therefore be fewer barristers willing to grant access in difficult circumstances (or give pro bono advice). These concerns mirror those of the Bar Council Disability Sub Group. However, the BSB believes that maintaining the cab-rank rule and the duty to put a Reasonable Adjustment policy in place will ensure the removal of any barriers – physical or otherwise – which could make it difficult or impossible for disabled customers or visitors to use barristers’ services.</p> <p><u>Financial Implications</u></p> <p>Disabled barristers are more likely to work as sole practitioners. The cost of setting up an entity may have an adverse effect upon sole practitioners who may work reduced hours or on a part-time basis, as licensing costs will be in addition to the requisite practising certificate costs. Although the costs for sole practitioner entities may be less than those for larger entities, the additional associated costs of creating and running an entity may be financially prohibitive to some sole practitioners. However, nothing in the BSB’s proposals would require incorporation as an entity, so sole practitioners would only do so where it was in their interests overall.</p>
Age	<p><u>Access to Justice</u></p> <p>Many older people are more comfortable with face-to-face contact and for older people living in rural areas, public transport availability may prevent access to larger towns where their nearest entity is likely to be based. . In addition, it is important to emphasise that entities will need to have reasonable</p>

	<p>adjustments policies in place. Furthermore, the Code of Conduct in the BSB Handbook prohibits all discrimination on all grounds, so although certain types of age discrimination against under 18s in service delivery are not currently unlawful, generally age discrimination in service delivery is prohibited by the Code of Conduct.</p> <p><u>Equality of Opportunity</u></p> <p>The Biennial Survey shows that those barristers working as sole practitioners in self-employed practice are more likely to be over the age of 50.. It is thus possible that there may be fewer opportunities for them to form an entity with colleagues. However, the BSB considers that the risk in this regard is not high, as the scheme permits a self-employed barrister to incorporate a company wholly owned by them as a vehicle through which to supply their own services. This may therefore present older barristers with an opportunity to establish their own entity.</p>
Sexual Orientation	We have not identified any specific impact in relation to sexual orientation.
Religion/Belief	Entities have the potential to facilitate flexible working once they are established, which could be of benefit to those with a religious affiliation and indeed all parties.
Gender Reassignment	We have not identified any specific impact in relation to gender reassignment.
Pregnancy/ Maternity	Entities have the potential to facilitate flexible working once they are established, which could be of benefit in the event of a pregnancy or maternity and indeed to all parties.
Marriage and Civil Partnership	We have not identified any specific impact in relation to marriage and civil partnership.
Other Identified Groups	A disincentive for those from lower socio-economic groups to enter the profession and in particular, enter into self-employed practice is that regular work and income is not guaranteed. For those from lower socio-economic groups, working for entities may therefore be more attractive than entering into self-employed practice, as a regular income is more likely.

How does the policy advance equality of opportunity?
The analysis highlights a number of areas where the BSB's proposals offer opportunities for new ways of working which might bring benefits. The proposals promote greater opportunities to control business practices, either to become an owner/manager, share risks and rewards or seek

employment options.

How does the policy promote good relations between different groups?

We have not identified any specific ways in which entities would promote good relations between different groups but they will provide opportunities for different groups to work together in new ways.

### 3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	X
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	
Reason for decision:		
While the impact is positive overall, we have identified some risks. These will be monitored but we have not identified any major impact on equality and diversity.		

### 4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale

Consultation on additional policy issues and fees.	Establish that regulatory arrangements and fees are proportionate.	Ewen MacLeod/ Regulatory Policy Department.	July to September 2014.
Communications strategy.	Ensure that the Communications strategy highlights and clarifies the business opportunities entities may offer barristers.	Amanda Thompson (as part of implementation Project Board).	Once the rules have been approved by the Legal Services Board and during the pre-launch period.
Consultation with vulnerable client representative groups.	Ensure that access to justice can be maintained.	Equality and Diversity Committee and Laura Simons (Communications Team).	Ongoing after regime launched.
Monitor distribution of different protected groups following the introduction of BSB regulation.	Analysis of take up by different groups	Supervision Department/Equality and Diversity Committee.	Ongoing after regime launched.
Additional equality analysis focusing on application process	Identify whether any disproportionate being introduced as processes are finalised	Oliver Hanmer, Head of Supervision	By September 2014