

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

**STANDING ORDERS
FOR THE BAR STANDARDS BOARD**

FOREWORD

The following Standing Orders are issued under the Authority of paragraph 14(1) of the Bar Standards Board Constitution.

This edition of the Standing Orders came into effect on 15 October 2019

PART 1 – INTRODUCTION

Definitions

1. In these Standing Orders, unless the context requires otherwise:

“The Bar Council” means the Council of the General Council of the Bar of England and Wales.

“The Bar Standards Board” and “BSB” means the Board, Committees established under these Standing Orders and any individual or group exercising the delegated powers of the Board.

“Board” means the Board of the BSB established under Paragraph 2 of the BSB’s Constitution.

“BSB staff” means the employees of the Bar Council appointed by the BSB in accordance with paragraph 63.

“BTAS” means the Bar Tribunals and Adjudication Service, an independent body set up by the Council of the Inns of Court to appoint and administer Disciplinary Tribunals and other relevant panels on behalf of the BSB.

“Committee” means a Committee established by the BSB pursuant to Part 4 of these Standing Orders.

“IDB” means the Independent Decision-Making Body which is collectively those appointed by the BSB pursuant to Part 4 of these Standing Orders.

“IDP” means the Independent Decision-Making Panel, a panel consisting of a minimum of three members of the Independent Decision-Making Body to take relevant decisions as provided in the BSB Handbook.

“Internal Governance Rules” means the Internal Governance Rules made by the Legal Services Board.

“Lay person” has the meaning given in paragraph 2(4) of Schedule 1 to the Legal Services Act 2007 and “lay member” has a corresponding meaning.

“Practising barrister” means a barrister holding a current practising certificate issued by the General Council of the Bar and the Bar Standards Board.

“Regulatory arrangements” has the meaning given in section 21 of the Legal Services Act 2007.

“Regulatory functions” has the meaning given in section 27(1) of the Legal Services Act 2007.

“Representative functions” has the meaning given in section 27(1) of the Legal Services Act 2007.

“Seven Principles of Public Life” means the principles, also known as the “Nolan Principles”, as laid down in the Committee on Standards in Public Life’s thirteenth report “Standards Matter” and referred to in paragraph B4 of the Constitution and reproduced in Annex 1.

“Task Completion Group” means an ad hoc group established by the BSB to complete a specific task or tasks. At the time of the establishment the BSB shall specify a time limit for completion of the tasks. Such time can only be extended by the BSB.

Any terms used in the Legal Services Act 2007 have the same meaning as in that Act.

PART 2 – THE BAR STANDARDS BOARD

General

2. The BSB is committed to:
 - a. providing regulation of advocacy and expert legal advice in the public interest;
 - b. acting in a way that is compatible with the regulatory objectives, having regard to the regulatory principles as required by section 28 of the Legal Services Act 2007;
 - c. conducting its business in harmony with the Seven Principles of Public Life;
 - d. making its regulatory decisions independently of the Bar Council;
 - e. consulting with the Bar Council as required by the Legal Services Act 2007 and the Internal Governance Rules;
 - f. undertaking regulatory functions only and not undertaking any representative functions;
 - g. working cooperatively with the Inns of Court, the Council of the Inns of Court and BTAS; and
 - h. conducting its business in accordance with its Statement of Governance Principles as published by the BSB.

Consultation on exercise of regulatory functions

3. When proposing to make or alter the regulatory arrangements, and in other cases where it considers it appropriate, the BSB will normally consult, in the way it considers appropriate:
 - a. The regulated community (including its representative body and sections of the Bar); and
 - b. Other interested parties (including for example, the public, other approved regulators, the judiciary, barristers' clerks, academic providers and other education providers) as it considers appropriate.
4. In relation to proposals to make or alter the regulatory arrangements, the BSB will normally allow a period of three months for consultation before a decision is taken.

Saving for defects etc

5. All acts done in good faith by the BSB shall (so far as is lawful), notwithstanding any defect, be as valid as if there were no such defect or error.

PART 3 – OBLIGATIONS TO THE BAR COUNCIL

6. The BSB will make information and papers available to the Bar Council for the purpose of the Bar Council fulfilling its function as an Approved Regulator including its obligations under the Legal Services Board's Internal Governance Rules as made by them from time to time.

PART 4 – COMMITTEES AND IDB

Committees of the BSB

7. The Board establishes the following Committees whose terms of reference and membership

are set out in Annex 2:

- a. The Governance, Risk and Audit Committee; and
 - b. The Planning, Resources and Performance Committee.
8. The Chair and Vice Chair of the Board have the right to receive papers and to attend meetings of all Committees.
9. Without prejudice to the power of the Board to amend Annex 2 on its own initiative, a Committee may at any time propose an amendment to its terms of reference or membership for consideration by the Board.
10. Save where provided for in these Standing Orders each Committee may determine its own composition and procedure subject to the provisions of Part 6 and the following general requirements:
- a. Each Committee is to have a minimum of a Chair and a Vice Chair. Wherever possible, at least one of these two office holders should be a member of the Board;
 - b. At least a third of the Committee's membership must be lay persons;
 - c. At least a third of the Committee's membership must be barristers;
 - d. Each Committee must adopt and maintain rules of procedure on an annual basis addressing meeting arrangements (including frequency of meetings and arrangements for urgent business outside regular meetings);
 - e. The Chair of each Committee or, in that person's absence, a Vice Chair, shall take the chair at every meeting of the Committee. In the absence of the Chair and any Vice Chair, or where an interest has been declared by them for a specific item only, the members present may proceed to elect a chair from among their number for the purposes of that meeting or that item; and
 - f. Members of a Committee shall be appointed and reappointed in accordance with the Procedures set out in Annex 3.

The IDB

11. The Board establishes the IDB whose terms of reference are set out in Annex 2d on such terms and conditions as it considers appropriate, which may include terms relating to performance, appointment and removal as a member.
12. The IDB shall have a minimum of a Chair and a Vice-Chair and be comprised of a membership of lay person and barrister members.
13. Members of the IDB shall be appointed and re-appointed in accordance with the procedures and terms set out in Annex 3b.

Restrictions on Committee and IDB Membership

14. A member of the Bar Council or any of its representative committees may not hold office as Chair, Vice Chair or as a member of:
 - a. the Board;
 - b. any of the BSB's committees; or
 - c. The IDB.
15. A person cannot be both a member of the Board and the IDB.
16. A person shall cease to be a BSB Committee or IDB member if:
 - a. the period for which they were appointed expires (and their appointment is not renewed);
 - b. they resign their membership by notice in writing;
 - c. they were appointed as a lay person and cease to be a lay person;
 - d. they were appointed as a barrister and subsequently cease to be a barrister or become a member of the Bar Council or one of its representative committees;
 - e. the Board resolves that they are unfit to remain a member (whether by reason of misconduct or otherwise); or
 - f. the Board resolves to disestablish or substantively restructure a Committee of which a person is a member so as to be inconsistent with continued office by that person, upon three months' notice; or
 - g. they fail to attend four or more meetings in any rolling 12-month period and the Committee or Board resolves that they should cease to be a member.
17. Committees and the IDB may act only in matters within their terms of reference, within any agreed budget and in accordance with the Statement of Governance Principles.

Reports to the Board

18. A Committee must report to the Board at least annually but as often as required by the Board.
19. A report on the outcomes of matters considered by the IDB must be submitted to the Board at least annually but as often as required by the Board.

Payments to members

20. The BSB may decide to pay fees and expenses to members of the Board or of Committees or of the IDB on terms it may set.

Obligations of members

21. All Board and Committee and IDB members are subject to continuing satisfactory performance and compliance with the Standing Orders and Governance Manual. Such persons may be removed from office for failing to meet these obligations, based on the reviews outlined in paragraph 22 or any other ad hoc reviews of individual members that the Board or the Chair of the Board or the Chair of the Committee or the Chair of the IDB determines are required.
22. All Board and Committee and IDB members are subject to a minimum of a review of performance within 18 months of appointment and a review of performance preceding any reappointment decision.

PART 5 – BSB ADVISORY BODIES

23. The BSB may appoint a Task Completion Group on such terms as it considers appropriate.
24. Task Completion Groups may act only in matters within their terms of reference, within the agreed budget and in accordance with the Statement of Governance Principles.
25. The BSB may establish an Advisory Pool of Experts on such terms and conditions as it considers appropriate, which may include terms relating to performance, appointment and removal as a member.
26. A member of the Bar Council or any of its representative committees may not be appointed as a member of:
 - a. Task Completion Groups; or
 - b. the Advisory Pool of Experts.

Payments to members

27. The BSB may decide to pay fees and expenses to members of Task Completion Groups or of the Advisory Pool of Experts on terms it may set.

PART 6 – PROCEEDINGS OF THE BOARD AND ITS COMMITTEES

Meetings

28. The Board must meet at least six times in a 12-month period.
29. If the need arises, the Chair or Vice Chair may convene additional meetings, which may take place by telephone, videoconference or email if necessary.
30. Each Board meeting may be separated into public and private sessions.
31. Committee meetings are held in private and the frequency of such meetings is to be determined by the Committee.

Attendance at meetings

32. The Chair of the Bar Council and a person nominated by the President of the Council of the Inns of Court are entitled to attend and speak (but not vote) at any public session of a

meeting of the Board. The Chair of the BSB may also agree that any other person or persons nominated by the Chair of the Bar Council may attend and speak (but not vote) at any public session of a meeting of the Board.

33. The BSB may invite the Chair of the Bar Council and a person nominated by the President of the Council of the Inns of Court, to attend all or part of the Board's private sessions. Such invitation shall be in accordance with the Protocol for ensuring regulatory independence as agreed and adopted by the Bar Council and the BSB.
34. If a Committee Chair is not a Board member, the Committee Chair has ex-officio rights to attend and speak (but not vote) at any public session of a meeting of the Board and, at the invitation of the Chair, at all or part of any private session.
35. The Board or a Committee may at any time invite any person to attend their meetings in an advisory or consultative capacity.

Quorum

36. The quorum for a Board meeting is five members of whom at least three must be lay members and at least two must be barrister members.

37. No business may be transacted at any meeting of a BSB Committee unless one third of its appointed members are present, in person or by telephone or videoconference.
38. If a vote is required by the Board or a Committee, decisions must be made by simple majority. The Chair will have a casting vote in the event of a tie.
39. Either the Chair or the Vice Chair must be present at each meeting of the Board unless the Board resolves to dispense with that requirement for a particular meeting.

Minutes

40. Decisions made by the Board and Committees must be recorded in writing.
41. Minutes of the decisions taken and where appropriate the proceedings of each meeting of the Board and its Committees shall be drawn up and approved at the next appropriate meeting of the Board or the Committee.

Written resolutions

42. A decision taken outside a meeting of the Board or a Committee is valid if:
 - a. reasonable notice of the matter to be decided has been given to all members of the Board or the Committee;
 - b. it is subject to normal quorum rules and all members eligible to vote are given the opportunity to vote;
 - c. the decision is recorded in a single written document signed by at least two thirds of members or approved by email by at least two thirds of members; and;
 - d. the decision is formally ratified at the next meeting and appears in the minutes of that meeting.

Agenda papers

43. The agenda and papers for any meeting of the Board or a Committee shall be sent to its members at least four working days before a meeting. With the consent of the Chair or Vice Chair shorter notice may be given.

Publication of agendas, papers and minutes by the BSB

44. The Board may decide which of the papers considered at its meetings should be made public after each Board meeting.

45. The Board may also publish its agenda and minutes of its meetings.

46. There is a presumption in favour of publication of Board papers unless the Board considers there is good reason not to do so.

PART 6A – PROCEEDINGS OF IDPs

Meetings

47. The IDP meetings are held in private

48. IDP meetings can be in person, by email, by telephone, or videoconference and the frequency of such meetings is to be determined by the BSB.

49. Each IDP meeting must have a minimum of three members, drawn from the IDB membership, and must have a lay majority of at least one.

50. An IDP may at any time invite any person to attend their meetings in an advisory or consultative capacity.

51. Decisions made by an IDP must be recorded in writing.

PART 7 – MEMBERS' INTERESTS

52. The Board must establish and maintain policies on declarations of interest and on offers and receipt of gifts or hospitality by members of the Board, Committees and the IDB.

53. With regard to conflicts of interest, a member of the Board, a Committee or the IDB must:

- a. Where they have an interest in an item of business to be transacted declare that interest;
- b. Where the Policies so require, absent themselves while that item is under consideration.

54. A member of the Board or a Committee or IDB must, in accordance with the Gifts and Hospitality Policy, declare any reportable hospitality offered or received in that capacity.

PART 8 – DELEGATION

55. Pursuant to paragraph 14(4) of the Constitution, the following arrangements are made for delegation of the functions of the Board.
56. The functions of the Board in relation to the matters within the terms of reference of a Committee stand delegated to the relevant Committee as set out under paragraph 7 and Annex 2 and in accordance with paragraph 10 and Part 6.
57. The Board may, to the extent it considers appropriate and subject to paragraph 58, delegate in writing any function to the Chair of the BSB, a Committee, the Chair of a Committee, the IDB, one or more members of BSB staff, or any other body or person, either by name or by a position so specified in the delegation. The Board shall establish and maintain a scheme of delegations identifying each function so delegated including details of the body or person (designated by office or name) to whom it is delegated, and the conditions (if any) on which it is delegated. Notwithstanding such scheme of delegations, the Board may delegate such matters as it considers appropriate to the Director General who in turn can delegate such matters to such BSB staff as they consider appropriate.
58. The following functions must be exercised by the Board itself and may not be delegated:
- a. adoption and amendment of the Standing Orders of the BSB;
 - b. adoption of the Declaration of Interests Policy and the Gifts and Hospitality Policy required by paragraph 52;
 - c. approval of the budget bid;
 - d. making of rules forming part of the regulatory arrangements; and
 - e. decisions about policy on payment of fees or expenses under paragraphs 20 and 27.
59. A Committee may delegate any function within its terms of reference to a member of BSB staff either by name or by a position specified in the delegation. Any such delegation must be recorded in writing, notified to the Board, and recorded in the scheme of delegations.
60. Nothing in paragraphs 57-59 prevents the Board or a Committee whose function has been delegated from exercising that function itself.

PART 9 – RESOURCES

General

61. The Bar Council's financial management controls are set out in the Finance Manual produced by its Finance Committee. The BSB will abide by the Finance Manual.

The Annual Budget

62. The BSB will prepare an annual budget in accordance with the procedures set out in the Finance Manual. The Planning, Resources and Performance Committee will scrutinise the BSB budget proposals before the Board considers its budget for submission in accordance with the Finance Manual procedures.

Staff

63. The Board appoints its own staff in accordance with the employment policies agreed from time to time with the Bar Council. Responsibility for appointment of staff other than the Director General will be delegated by the Board to the Director General.

Annex 1

THE SEVEN PRINCIPLES OF PUBLIC LIFE (NOLAN PRINCIPLES)

Selflessness – Holders of public office should act solely in terms of the public interest.

Integrity – Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity – Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability – Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness – Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty – Holders of public office should be truthful.

Leadership – Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Annex 2 – TERMS OF REFERENCE OF BSB COMMITTEES AND THE IDB

Annex 2a - Governance, Risk and Audit Committee

The Terms of Reference of the Governance, Risk and Audit Committee are:

1. to advise the Board on the effectiveness of the corporate governance structures, and to monitor and recommend to the Board action in respect of the effectiveness of the strategic arrangements for governance, risk management and audit. This includes making recommendations to the Board on its risk strategy and policies, as well as agreeing a programme of Board member training and development to satisfy corporate governance guidelines;
2. to monitor and recommend to the Board action in respect of the Board's management of corporate risk, including arrangements for business continuity and disaster recovery;
3. to provide assurance that the processes to manage risk are operating in accordance with the risk management framework, and to enable the Board in turn to provide assurances to the joint Audit Committee (of the Bar Council and the Bar Standards Board);
4. to consider the effectiveness of the Board's financial management and control systems, and internal business processes, including accounting policies, anti-fraud and whistle-blowing arrangements and recommend actions to the Board;
5. to provide oversight of the internal audit function. To appoint the Board's Internal Auditors and agree the annual audit plan including any audit reviews that the Board wishes to see conducted. To monitor and provide assurance to the Board on the effectiveness of internal controls and the effectiveness of the response to issues identified by audit activity.

The membership of the Governance, Risk and Audit Committee shall be:

1. A lay chair who must also be a Board member;
2. A lay or barrister vice chair;
3. One other member who must be a Board member; and
4. Three other members who must not be Board members.

Annex 2b - Planning, Resources and Performance Committee

The Terms of Reference of the Planning, Resources and Performance Committee are:

1. to consider, and support the Board and the executive in formulating, the overall strategy for the BSB, with particular emphasis on horizon scanning, vision, mission statement, priorities, activities and outcomes. To scrutinise the BSB's three-year Strategic Plan and annual Business Plan before the Board's signoff is sought. Agree actions to ensure that the BSB's associated strategies (Communications, IT, HR and research) are aligned to the corporate strategy;
2. to oversee operational and programme delivery (without duplicating the detailed oversight provided by any other committee or programme/project governance structure) as well as financial performance against the objectives and targets set out in the Business Plan. To support the Board and executive with finalising the BSB's Annual Report publications;
3. to consider the annual budget and revenue, in the context of the Strategic and Business Plans, to question whether proposed funding is adequate and properly and effectively allocated across the business, and agree certain levels of virement between programmes (as anticipated in the Finance Manual with levels set by the Committee from time to time);
4. to consider how the BSB presents financial information to best effect and with appropriate transparency and comprehensiveness. To consider the reliability of forecasting and how the pursuit and achievement of efficiency savings are reported;
5. to review and agree actions on the effectiveness of service level agreements within the organisation;
6. to consider how the BSB undertakes planning activity to best effect and in a timely and consistent manner, as well as to review the robustness of programme and project plans. To support the Board and the executive with the planning and monitoring of the implementation of the Regulatory Standards Framework; and
7. to agree how the BSB monitors, measures and reports organisational performance, regulatory effectiveness and value for money with appropriate transparency and in a timely and consistent manner. To consider the quarterly performance and regular effectiveness reports prior to submission to the Board.

The membership of the Planning Resources and Performance Committee shall be:

1. Five members, including a chair who must be a member of the Board, and have an overall lay majority.

Annex 2c – IDB

The Terms of Reference of the IDB are:

1. To provide members for IDPs which carry out the functions and exercise the powers given to IDPs pursuant to the Enforcement Decision Regulations under Part 5, Section A of the BSB Handbook, and to consider applications for review made under Part 3 C6, Part 3 E11, or Part 4 B10, or reviews of decisions taken under Part 1 4A, of the Bar Standards Board Handbook;
2. to report to the Board on its work as and when required.

The membership of the IDB shall be:

3. A chair and at least one vice chair. The chair can be either a lay or barrister member; and
4. Sufficient numbers of lay persons and barrister members to enable the IDB to carry out its business expeditiously.
5. The IDB Chair may carry out the functions and exercise the powers given to the IDB Chair under Part 5 of the BSB Handbook.

Annex 3 – APPOINTMENTS PROCESS FOR BSB COMMITTEES

1. The BSB appoints and reappoints all Chairs, Vice Chairs and members of its Committees on merit.

Appointments of Board members to the posts of BSB Committee Chairs and BSB members of Committees are made by the BSB Chair in consultation with the BSB Vice Chair and BSB Director General.

2. Appointments of new members of BSB Committees are made by the BSB Chair on the recommendation of a selection panel, convened as required for each recruitment.
3. The selection panel convened for recruitment of members of BSB Committees is to consist of:
 - a. an independent person with knowledge of the Governance Code on Public Appointments, or similar skills and experience in best practice in recruitment to public office;
 - b. at least one and a maximum of two members of the Board;
 - c. a member of senior staff of the BSB, as delegated by the Director General.
4. Appraisals must inform retention and reappointment recommendations and decisions. The BSB Chair or their nominees must carry out the appraisals.
5. All appointments made by the BSB Chair shall be for a fixed period of up to three years. Appointments may be renewed for a further fixed period of up to three years without holding a competition, if the Chair of the Committee concerned is satisfied that:
 - a. the person has performed to the standard to be expected of the office held, and
 - b. it is in the interests of the BSB to renew the appointment.
6. In exceptional circumstances, the BSB may resolve to offer an extension of an individual person's or group of persons' appointment beyond the maximum six year period of appointment permitted above. Any resolution to make a limited offer of extension must:
 - a. allow for an extension of no more than 18 months in duration,
 - b. be made by offer in writing, and
 - c. be made for a specific reason that is articulated in the offer of extension.

Annex 3b – APPOINTMENTS PROCESS FOR THE IDB

1. The BSB appoints and reappoints all Chairs, Vice Chairs and members of its IDB on merit.
2. Appointments of new members of the IDB are made by the BSB Chair on the recommendation of a selection panel, convened as required for each recruitment.
3. During the first 12 months following the establishment of the IDB, the role of IDB Chair may, at the BSB Chair's discretion, be filled by an individual appointed by the BSB Chair in lieu of the selection process detailed at paragraph 4 of this Annex 3b.
4. The selection panel convened for recruitment of the IDB Chair is to consist of:
 - a. an independent person with knowledge of the Governance Code on Public Appointments, or similar skills and experience in best practice in recruitment to public office;
 - b. at least one and a maximum of two members of the Board;
 - c. a member of senior staff of the BSB, as delegated by the Director General.
5. The selection panel convened for recruitment of the IDB Vice Chairs and members of the IDB is to consist of:
 - a. an independent person with knowledge of the Governance Code on Public Appointments, or similar skills and experience in best practice in recruitment to public office;
 - b. The IDB Chair or, in the absence of the IDB Chair an IDB Vice Chair;
 - c. a member of senior staff of the BSB, as delegated by the Director General.
6. Appraisals must inform retention and reappointment recommendations and decisions. The IDB Chair or their nominees must carry out the appraisals. Any appraisal of the IDB Chair will be conducted by the BSB Chair or their nominee.
7. All appointments made by the BSB Chair shall be for a fixed period of up to three years. Appointments may be renewed for a further fixed period of up to three years without holding a competition, if the BSB is satisfied that:
 - a. the person has performed to the standard to be expected of the office held, and
 - b. it will allow the BSB to continue its regulatory functions to renew the appointment.
8. In exceptional circumstances, the BSB may resolve to offer an extension of an individual person's or group of persons' appointment beyond the maximum six year period of appointment permitted above. Any resolution to make a limited offer of extension must:
 - a. allow for an extension of no more than 18 months in duration,
 - b. be made by offer in writing, and
 - c. be made for a specific reason that is articulated in the offer of extension.