



The Bar Council

Bar Council response to the Bar Standard's Board's (BSB) "New arrangements and rules for first tier complaints handling" consultation

1. This is the response of the General Council of the Bar of England and Wales (the Bar Council) to the BSB's consultation on New arrangements and rules for first tier complaints handling.¹

2. The Bar Council is the voice of the barrister profession in England and Wales. Our nearly 18,000 members – self-employed and employed barristers – make up a united Bar that aims to be strong, inclusive, independent and influential. As well as championing the rule of law and access to justice, we lead, represent and support the Bar in the public interest through:

- Providing advice, guidance, services, training and events for our members to support career development and help maintain the highest standards of ethics and conduct
- Inspiring and supporting the next generation of barristers from all backgrounds
- Working to enhance diversity and inclusion at the Bar
- Encouraging a positive culture where wellbeing is prioritised and people can thrive in their careers
- Drawing on our members' expertise to influence policy and legislation that relates to the justice system and the rule of law
- Sharing barristers' vital contributions to society with the public, media and policymakers
- Developing career and business opportunities for barristers at home and abroad through promoting the Bar of England and Wales
- Engaging with national Bars and international Bar associations to facilitate the exchange of knowledge and the development of legal links and legal business overseas

3. To ensure joined-up support, we work within the wider ecosystem of the Bar alongside the Inns, circuits and specialist Bar associations, as well as with the Institute of Barristers' Clerks and the Legal Practice Management Association.

¹ <https://www.barstandardsboard.org.uk/static/4a4089b4-a7d0-49bd-ad043434a3c00f7e/BSB-FTC-Consultation.pdf>

4. As the General Council of the Bar, we are the approved regulator for all practising barristers in England and Wales. We delegate our statutory regulatory functions to the operationally independent Bar Standards Board (BSB) as required by the Legal Services Act 2007.

Overview

5. We responded² to the LSB's consultation on first tier complaints – draft section 112 Requirements, Guidance and policy statement for approved regulators under the Legal Services Act 2007 – in 2023.

6. We understand that the BSB considers it must adjust its processes and the Handbook rules to comply with the LSB's amended policy statement and guidance, published in 2024, that resulted from the LSB's consultation exercise.

Bar Council support for barristers

7. The Bar Council is committed to supporting barristers to understand their obligations with regards to first tier complaints handling as well as best practice. This is done through the issuing of guidance, delivery of an annual complaints handling seminar and on-going support for barristers and their chambers and entities through the ethical and chambers management enquiries services.

The need for a proportionate approach

8. Like the BSB, we wish to see excellent complaints handling at the first tier, and for all clients, including vulnerable clients, to be able to complain about the service they have received if they wish to. But any additional regulation carries cost to barristers, chambers and entities through the time taken to review and adjust policies and change processes to comply with more onerous requirements; in particular, here, the need to ask for additional information from complainants, record all data received, and then submit required data to the regulator. If chambers' and entities' management staff members are involved, this will take up their time, which has a cost impact on the barrister members: for example, increased staffing, which they must fund, or the displacement of other business activities, which will go unperformed.

9. There will also be a cost to the BSB. It has acknowledged that data collection for and its monitoring of first tier complaints handling will require the employment of new staff. This will have an impact on its budget. The BSB's budget is funded by barristers via their

² Our response can be viewed on our [website](#) (look under November 2023)

practising certificate fee (PCF). Likewise, all increases to the BSB budget are funded by barristers via their PCF.

10. To recap, whilst we share the aim of excellent first tier complaints handling by barristers, we are conscious of the need for the BSB to act proportionately and to limit the cost of implementing the proposals to barristers.

Client satisfaction

11. In our response to the BSB's 5-year strategy consultation earlier this year, we highlighted that barristers' adoption of the transparency rules had had a positive impact on the number of complaints received about costs and clarity of costs:

"A piece of research³ undertaken by the BSB later in 2022 showed that there had been an increase in the number of consumers obtaining information about barristers' fees and services before choosing a barrister. There was also a simultaneous drop in complaints relating to costs and clarity of costs. This indicates that the transparency rules had a positive effect on consumers' ability to make an informed choice about legal representation."⁴

12. This suggests that barristers' handling of service complaints is improving. It also illustrates that there are other ways of reducing the number of complaints, apart from just adjusting the complaints-handling process itself.

13. As the BSB acknowledges in its consultation paper, barristers' clients have a high level of satisfaction with the services they have received. This is clear in the Legal Services Consumer Panel's most recent tracker survey data⁵ where they said,

"Satisfaction with the service received from providers has slightly increased again this year to almost nine in ten (88%).....This marks a continual improvement over time since 2012, when 79% indicated they were satisfied with the service provided"⁶

14. The high level of client satisfaction with barristers' services is also reflected in a low level of complaints about barristers, relative to other lawyers, referred on to the Legal Ombudsman (or **LeO** for brevity). The complaints about barristers escalated to LeO (i.e. second-tier complaints) typically constitute just 4% of the total number of complaints received by LeO about authorised persons. Data supplied to us by LeO indicates that the representation of barristers in the complaints data has dipped slightly from 4.1% in 2023-2024 period to 3.7% in the 2024- 2025 period.

³ <https://www.barstandardsboard.org.uk/static/49d31ba9-a956-4694-9039e7388dc2e153/Transparency-Rules-Evaluation-Impact-on-Consumers.pdf>

⁴ Bar Council [response](#) to BSB call for evidence on its 5 year strategy, p.14

⁵ <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2025/07/25.07.07-How-consumers-are-using-legal-services-report-2025.pdf>

⁶ Ibid, p.24

Potential adverse impacts

15. It is concerning that the BSB's equality impact assessment identified that its proposals are, "likely to have disproportionate impacts on ethnic minority and women barristers".⁷ This is said to be due to women and ethnic minority barristers being over-represented in certain practice areas (e.g. family law) which tend to attract a higher number of complaints. There may well be other discriminatory reasons at play including subconscious bias. Compliance with the new proposals could therefore consume a greater portion of these barristers' time than that of other practitioners and place them at a competitive disadvantage.

16. If, as is to be expected, these barristers report a higher number of complaints to the BSB, it should not attract unwarranted attention from the regulator. There must be an understanding by the BSB that clients complain about a variety of issues, for both good and bad reasons, and some of those issues and reasons bear no relation to the skills and expertise of the barrister nor the service they provided. In some cases, the barrister simply acts as a lightning rod for the upset and dissatisfaction experienced by a client for personal and extraneous reasons with some types of litigation or legal advice coinciding with acutely distressing times in their life. This is not to detract from the appreciation that some complaints are genuine and well-founded and need to be dealt with robustly.

17. We are not convinced that the BSB's additional planned guidance will address sufficiently the additional burden faced by these practitioners. It is vital that the BSB monitors the impact on them and is prepared to adjust its policies if it is evident that the reporting requirements are having a detrimental impact on women and ethnic minority barristers who are already known to be at a significant disadvantage across all practice areas at the Bar in terms of the gender pay gap.

Other developments

18. We expect that the model complaints handling procedures and materials that the BSB is currently developing with the LeO and other regulators will also be helpful. However they will not alone compensate for the additional regulatory burden and cost created by the proposals, if implemented. There must be sufficient flexibility in these materials for barristers, chambers, and BSB-regulated entities to adapt them to suit their particular structures.

⁷ <https://www.barstandardsboard.org.uk/static/4a4089b4-a7d0-49bd-ad043434a3c00f7e/BSB-FTC-Consultation.pdf>, 2025, p 17

Question 1. Should our updated first tier complaints guidance cover any additional topics beyond those identified above (accessibility requirements and supporting vulnerable consumers)?

19. When considering what the BSB expects chambers, entities and barristers to report to them, the BSB should provide clear guidance on what falls within and outside of scope. As the BSB has noted in paragraph 13 of its consultation, the LSB's requirements are only applicable to complainants who are:

- a. individuals;
- b. a business or enterprise that is a micro-enterprise;
- c. a club/association/organisation, the affairs of which are managed by its members/a committee/a committee of its members, that has an annual income net of tax of less than £1 million;
- d. a trustee of a trust that has an asset value of less than £1 million
- e. a personal representative or beneficiary of the estate of a person who, before they died, had not raised a complaint with the authorised person.

We would not expect the BSB to impose any requirement to report or provide data on complaints made by others than these.

20. Further, the BSB should detail the position that should be adopted for complaints received from those opposing the client's case (whether barrister, solicitor, or lay client), as well as for complaints from clients about the service received, not from barristers, but from chambers' and entities' staff.

21. If the intention is to improve the complaints-related experience for those legal services users identified in paragraph 15 above, guidance should include further clarity around appropriate signposting to the LeO and the BSB, particularly for complainants on the opposing side (i.e. non-clients).

22. Further, examples in template policies to assist lay clients to understand what constitutes 'service', and 'inadequate service', would also be helpful. Similarly, some guidance for barristers, chambers and regulated entities, and complainants, on how disagreement on points of legal opinion should be dealt with, would also be helpful.

23. There could also be specific guidance and/or templates provided on the use and anonymisation of data, including any need to amend Privacy Notices. Otherwise, there is a risk that clients may be reluctant to pursue complaints. Similarly, there could be guidance on how to collect protected characteristic data (see our later point in response to question 6 objecting to this in principle).

Question 2. Do you agree with our proposal to insert a new requirement to rC108 (rC108.2) to mandate the submission of first tier complaints data to the Bar Standards Board?

24. Yes, we accept that this is needed, because the LSB has required “appropriate monitoring and data gathering systems”. However, the BSB must set out clear expectations in its guidance on what information must be submitted, when and/or with what frequency. It should also seek to limit the administrative burden this new requirement places on barristers, chambers, and regulated entities. For example, it ought to try and maintain consistency in its requirements for a sustained period, unless there is clear and evidenced justification for their being altered. Certainty enables chambers, barristers and entities to organise their time and resources. We ask the BSB to recognise the time it will take the Bar to adjust their processes to meet whatever reporting requirements may be imposed.

Question 3. Do you agree with our proposal to insert a new requirement to rC108 (rC108.3) that barristers inform their chambers/Bar Standards Board entity of any complaints they receive that relate to their work for that organisation?

25. Yes. This will be already happening in some form in most sets of chambers and entities, as many will have a centralised complaints handling policy and procedure to ensure the chambers or entity is aware of all complaints received about its members. It is valuable for chambers and regulated entities to have sight of all complaints in order that they can support their members through the process.

26. However, there are limitations to the lessons that can be learned by smaller chambers and entities that do not receive many complaints, and by sole practitioners. This is because they are unlikely to accumulate the quantity of data necessary to reveal any systemic issues affecting the services offered by them.

Question 4. Which of the following options for collecting first tier complaints data would you prefer?

27. The BSB rightly recognises that there are advantages and disadvantages to each of the three proposed methods of data collection. The option favoured will vary according to the structure and complaints handling processes of the barrister, chambers, or entity. Some chambers, for example, may require their members to handle complaints against them, and will prefer the submission of information by the barrister during and/or as part of the Authorisation to Practise (ATP) process. By contrast, other chambers will have a dedicated member of staff to deal with all complaints against members. The ATP process also may be taken on by the clerking team, on behalf of their members. Consequently, it is hard to say with any certainty which of the options barristers as a whole would generally prefer.

28. We are inclined to support whatever method is the most streamlined and accessible for the majority of practitioners and which also minimises the regulatory burden to them and to the BSB.

29. We highlight some of the relevant considerations of the different options below:

Option 1: Submission via the Authorisation to Practise process

30. Where barristers complete the ATP process themselves, this would create a burden for individual barristers and require them to produce more information at a time when they are already under pressure to submit a lot of other regulatory information within a short timescale. It could make what can already be an onerous process even more so. It also assumes that barristers have ready access to their complaints data. This may not necessarily be the case if, for example, the complaint was handled by a chambers staff member or if the record is stored in a place not readily accessible to the barrister. This option could therefore, in turn, increase the administrative burden on chambers as barristers are likely resort to their chambers for support in navigating the process. This would be more of an issue for sets with a greater number of members.

Option 2: Submission through a new MyBar form

31. The advantage of this model would be the flexibility of the timings of data submission. It may also encourage greater reflection for the barrister if they are required to report on their own complaints (although that is not the intended purpose of this data submission). However, relying on individual barristers to submit the information may lead to variation in how and when complaints are reported. The process could be fragmented and difficult for the BSB to process and enforce.

Option 3: Submission by chambers or BSB-regulated entities on behalf of barristers/members

32. If chambers/entities deal with client complaints centrally (as we believe to be the case for most “non-small” chambers/ entities), it follows that they will be best placed to fulfil any new reporting function to the BSB. Chambers already collate complaints data to comply with existing BSB rules. Therefore, having chambers submit the required data would appear to be a natural extension of this process, as they will already have ready access to the data. The BSB also identifies in its consultation that this option would increase the chambers’ visibility of complaints. Flexibility around the timing of submission of data is attractive (a characteristic shared with option 2). We are also concerned about the cost of setting up this process via MyBar, if that were the required reporting route; although we recognise this would be counterbalanced in the long run by efficiencies gained through adoption of this process.

Question 4b. If you prefer option 2 or 3, please also indicate whether you prefer data to be submitted incrementally throughout the year on complaint closure, or periodically (e.g. annually)?

33. There is a strong argument in favour of submitting the data incrementally, upon the closure of each complaint (possibly within 30 days of this date), whilst it is still fresh in people's minds, and the while data is readily accessible. This would also spread the administrative burden throughout the year. The process adopted must be kept as clear and simple as possible.

34. We are of the view that an email receipt from the BSB detailing the report would also be helpful, as this will save separate record keeping for chambers administration. We don't expect that the number of complaints that need to be reported would be sufficiently high to create economies of scale that periodic submission would otherwise facilitate.

Question 5. If we proceed with periodic data requests, how often should complaints data be submitted to the Bar Standards Board - every 12 months or 24 months? Are there any other timeframes we should consider?

35. Assuming periodic data submission – rather than after each complaint – it would take a long time to start analysing the data if it were only submitted every 24 months. Therefore, on this assumption, we would suggest every 6 or 12 months is more appropriate. However, for the reasons outlined above, we have a preference for submission of data to the BSB within 30 days of the concluding correspondence being sent to the complainant. Note that clear guidance on what to do in the event a complainant continues to communicate with chambers or entities despite having received this notification would be helpful. This issue has been mentioned earlier in our response at paragraph 16.

Question 6: Do you have any comments on the first tier complaints data fields we proposed to collect from the Bar? Are there any fields you think we should / should not collect (please specify)?

36. It is difficult to see how barristers, chambers, and entities will be able to collect consistently details about complaints that are escalated to the second-tier. This is due to the fact that much of the information can only be obtained by the complainant informing them of it, and is reliant on the complainant cooperating with information requests. The BSB acknowledges this flaw as it says it is only expecting submission of data where it is known. This raises the risk that the data collected for complaints in this category will be patchy and difficult to analyse meaningfully. It also runs the risk of undermining, to a degree, the reason for collection of the data. We are also mindful that each additional category of data that barristers are required to collect represents more work for them, their chambers/

entities. There is an argument that the requirement to collect data on escalated complaints should be dropped from the proposals.

37. Similarly, because the collection of clients' protected characteristics is reliant on cooperation from the complainant, it cannot be guaranteed that data collection on those characteristics will be consistent and reliable.

38. We are also concerned that asking a complainant who may already be feeling aggrieved and vulnerable to share such personal data, may cause suspicion and further ill feeling. It may even expose barristers to unfounded discrimination claims or adversely affect the complaint, cause a widening of the scope of complaint, or make it harder to resolve it to the client's satisfaction. It is also unlikely to elicit complainants' cooperation with the result that the data cannot be collected.

39. There are also questions about how to anonymise the data effectively where the numbers of complaints submitted by a chambers to the BSB will be low (which is expected for the majority of providers). There are concerns about how to comply with data protection regulations in relation to both the collection of personal data and its submission to the BSB. Clear guidance on both matters would be required if this proposal were to proceed.

40. In relation to protected characteristics data that is collected, we find it hard to understand how the BSB will work out whether there is any relationship between the client's characteristics and the complaint, especially if the complaint itself has in its own terms nothing to do with the client's characteristics.

41. There is, we think, clearer value in asking whether a client considers themselves to be in a position of vulnerability, in order that adjustments can be made in the complaints handling process, e.g. in terms of making it easier for them to navigate. We also wonder whether, in light of the risks associated with asking for complainants' protected characteristics, it might be better to ask them instead about their vulnerabilities. That will remove some of the difficulties, whilst still capturing information that will enable barristers, chambers and entities to better support complainants with vulnerabilities through the complaints handling process. It is important that consumers have their expectations managed in this respect, and that chambers or barristers have appropriate autonomy in assessing and offering proportionate support and resolutions.

42. Although we wish to keep the absolute minimum the administrative burden on barristers, some additional data fields include the following:

- The funding type of the case (e.g. privately funded or by legal aid)
- The classification of the instruction (via solicitor, insurer, union, public access)
- The outcome of the case if concluded (useful to know for context and identifies those complaints brought largely because the client was dissatisfied with the outcome)

- Whether advice was sought from Bar Mutual in relation to the handling of the complaint. This is because once Bar Mutual is involved, the content of responses is not necessarily down to the barrister or their chambers, but may be controlled by the insurer (who may have a different approach to risk).

Question 7: When submitting data (excluding complaints data) to the Bar Standards Board, do you have any preferences for when to do so, e.g., at certain Bar Standards Board-mandated times, annually, or another frequency (please specify), and any specific formats, e.g. via Authorisation to Practice, MyBar, or some other way?

43. If periodic data submission is required – but see paragraphs 33-35 above - our preference would be for annual submission; but not in the period from February to April, owing to the huge array of other administrative duties that fall on many chambers at this time of year. This is also the period when ATP takes place.

Question 8: In general, how would you prefer to submit data to the Bar Standards Board, e.g., via Authorisation to Practise, MyBar forms, or some other way?

44. If the individual barrister is required to submit the data, MyBar is preferable. Where a chambers or entity is submitting data on behalf of its members, an online form would be preferable, with a receipt sent to the person submitting (and, where *ad hoc* submission is permitted after each complaint, to the barrister concerned also).

Question 9: Using any previous experiences of submitting data, what has worked well for you and what has not? How could we improve our data collection requirements?

45. Please see our comments in response to question 8 above.

Question 10: We propose to give barristers four months from publishing the updated BSB Handbook to make any changes necessary to their first tier complaints arrangements. Do you agree with these proposed implementation timelines?

46. If the updated guidance and templates are published at this time. then we think the timescales are achievable. Guidance and templates are however absolutely essential, particularly for smaller sets; and this will help create consistency across the profession.

Question 11: Do you anticipate these reforms will have any impacts (positive, negative, neutral etc.) on you and/or your organisation?

47. We anticipate that the reforms suggested will bring both positive and negative impacts. Potential positive impacts include richer centralised data for chambers and entities to analyse internally. It may also facilitate more reflection on interactions with clients and about barristers'/ chambers'/ regulated entities' complaints handling processes, leading to further improvements.

48. Possible negative impacts could result from having to request protected characteristic data from aggrieved individuals. Our concerns on this topic are set out in response to questions 6 and 12.

49. The new requirements will inevitably create additional burden on chambers, entities, and sole practitioners which will generate costs and detract from other fee earning work. For sole practitioners, the burden cannot readily be absorbed by chambers staff as they may not exist. The administrative burden will likely fall directly on the practitioner. Ethnic minority barristers are disproportionately represented amongst the 605⁸ sole practitioners at the Bar. Barristers that identify as black and minority ethnic constitute 26.8% of sole practitioners compared with just 16.1% of the Bar as a whole.⁹ This means that the reporting requirements will have a disproportionate impact on ethnic minority barristers that are sole practitioners.

Question 12: Do you have any other comments in relation to our proposals set out in this consultation?

50. The BSB have already identified that barristers specialising in criminal and family law are more likely to receive complaints because the stakes in criminal and family cases are high and the outcomes can be devastating for clients. As a result of this, barristers practising in these areas will be disproportionately affected by the proposed requirements in terms of the time spent complying with them.

51. Sole practitioners sometimes outsource the handling of complaints to a third party. The BSB will need to think about the feasibility of the sole practitioner collecting and submitting the data in these circumstances.

52. For reasons already outlined in response to question 6 we are firmly against the idea that a chambers, on receipt of a complaint, should be asking a complainant for protected characteristic data. That seems entirely out of place, and we believe that consumers may feel uncomfortable providing this data. We agree that procedures could allow for individual

⁸ All data correct as of 01 July 2025. Data is sourced from the General Council of the Bar's barrister demographics database

⁹ Ibid

complainants to identify any relevant protected characteristics at the initial complaint stage. However, we think the acquisition of relevant data can be achieved by asking complainants about whether there have any disabilities or vulnerabilities (subject to clear definition) that they wish to draw to the attention of the complaint-handler.

53. It strikes us that a focus on protected characteristics will likely steer an aggrieved complainant towards complaints that may not otherwise be made. It may also generate complaints about the complaints-handling process itself. We would be interested to know if and how other legal regulators have undertaken any protected characteristics data collection from consumers.

54. As already outlined, there are significant challenges in barristers/ chambers/ regulated entities capturing this data directly. There will also be difficulties in establishing whether there is a relevant connection between that data and the complaint. Questions would also arise as to how that data is to be sent on to the BSB anonymously, whether the BSB will provide a link for chambers to include it, so that they can take ownership of this data; and with privacy and other data protection concerns.

55. Chambers cannot be expected to collect protected characteristic data anonymously from complainants. There would also be clear challenges here around anonymisation platforms and their security (which then speaks to resourcing and speed of implementation issues), and the risk that individuals might be capable of being identified from submissions, owing to the low volume of data received by each barrister, chambers or entity.

56. Guidance therefore about how data should be captured is essential, as is a revised procedure template for chambers to use. If this were to progress to chambers collecting sensitive personal data, the BSB must produce a draft complaints-specific privacy/data collection notice, to accompany the complaints procedure, outlining the anonymisation of data, and any consent that may legally be required to share it with the BSB. It is important to note that, due to the low volume of complaints received, in the vast majority of cases, chambers or barristers will have no choice but to affiliate protected characteristic data with the complainant in their own records, in order to make their report to the BSB. It is unlikely that barristers' existing privacy notices would cover the collection of this data, since the data isn't being collected for the purposes of providing legal services.

57. It is also important to acknowledge that some practice areas will inevitably have trends related to protected characteristics. For example, people with protected characteristics may be over-represented in the areas of personal injury and employment law. To be useful, reporting would have to be broken down to practice area level.

58. We are also interested in whether the BSB has given any consideration to reviewing patterns between complaints against barristers with protected characteristics and the

number of complaints they receive? There would be similar challenges in acquiring barrister data concerning their protected characteristics.

Question 13: Do you have any comments or views in relation to our assessment of the equalities impact at Annex B? Where possible, please provide evidence.

59. There is a clear risk that the proposed additional data collection and reporting requirements will have a disproportionate impact on certain groups. For instance, women are arguably more likely to work in family law, which, as the BSB acknowledges in its consultation document, tends to attract a larger number of complaints. This is borne out by the fact that in the period from 2019-20 to 2023-24 family law complaints about barristers that were escalated to the Legal Ombudsman have been consistently higher compared to complaints about other areas of law. According to the Bar Council's barrister demographics database as of 01 July 2025, 61.9% of the 2964 barristers practising in family law are female, but just 40.3% of the Bar as a whole. Therefore, women are likely to be disproportionately adversely affected by the proposals. This will place them at a competitive disadvantage which will undermine efforts to address their continued under-representation at the Bar in general, in the Kings Counsel rank, and in judicial positions.

60. As mentioned earlier in response to question 11, there are also concerns about sole practitioners being disproportionately affected by the proposals.

Are you responding in an individual capacity or as a representative of your organisation?

61. We are responding as an organisation; the Bar Council.

Bar Council

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