

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

**Memorandum of Understanding between
The Bar Standards Board**

And

The Council of the Inns of Court

And

The Honourable Society of The Inner Temple

And

The Honourable Society of The Middle Temple

And

The Honourable Society of Gray's Inn

And

The Honourable Society of Lincoln's Inn

We can provide our literature in alternative formats. If you require this document in a different format, please contact us on contactus@barstandardsboard.org.uk or 020 7611 1444.

Contents

The Parties	3
Scope and Purpose of this MOU.....	3
Effective Date	4
Roles and responsibilities	4
Student membership of an Inn.....	4
Administration of fit and proper person checks	5
On admission to an Inn	5
Student conduct.....	6
At Call to the Bar.....	6
Qualifying Sessions	7
Assurance.....	8
Confidentiality and data protection	8
Liability and insurance.....	8
Complaints.....	9
Review	9
Dispute resolution procedure	9
Termination.....	9
Publication	10

The Parties

1. This Memorandum of Understanding (MOU) is between:
 - 1.1. The Bar Standards Board (BSB) whose principal office is at 289-293 High Holborn, London, WC1V 7HZ; and
 - 1.2. The Council of the Inns of Court (COIC), whose principal office is 9 Gray's Inn Square, London, WC1R 5JD; and
 - 1.3. The Honourable Society of The Inner Temple, Crown Office Row, London EC4Y 7HL; and
 - 1.4. The Honourable Society of The Middle Temple, Middle Temple Lane, London EC4Y 9BT; and
 - 1.5. The Honourable Society of Gray's Inn, 8 South Square, London, WC1R 5ET; and
 - 1.6. The Honourable Society of Lincoln's Inn, London WC2A 3TL.
2. The BSB is the independent regulatory body established by the General Council of the Bar for the regulation of legal services by barristers and BSB authorised entities in England & Wales¹. The BSB's powers arise from various statutes and regulations including the Legal Services Act 2007 ("the Act").
3. COIC is a charity (no. 1155640) and Company Limited by Guarantee (no.8804708) with objects that include advancing education in the administration and practice of law and promoting the sound administration of the law. It also provides administrative support to the Inns' Conduct Committee (ICC), which organises hearings to consider misconduct by student members of, or applicants to, the Inns of Court, and whether this means they are 'fit and proper' individuals to become practising barristers.
4. The four Inns of Court are the professional membership associations for barristers in England and Wales dedicated to promoting the rule of law and providing excellent education and training to their members. Under the Act at s207(1) a "barrister" means an individual who has been Called to the Bar by an Inn of Court and is not disbarred by an order of an Inn of Court.

Scope and Purpose of this MOU

5. This MOU sets out the roles and responsibilities of the Parties in relation to the education, training and qualification of barristers of England and Wales and is concerned with matters prior to Call to the Bar. "MOU" refers to this document and its accompanying Schedules. The MOU provides transparency as to the governance arrangements for the roles and responsibilities which the BSB, each of the four Inns and COIC (including the ICC) mutually agree to perform in relation to qualification for the Bar. The MOU provides the Parties with assurance that only those who are fit and proper to practise are Called to the Bar and that the Inns and COIC foster the development of a community of professional practice in the public interest, and in

¹ Under the Legal Services Act 2007 (the Act), the General Council of the Bar (or "Bar Council") is an Approved Regulator (as defined in the Act) for barristers in England and Wales. The Bar Council must under the Act delegate responsibility for all regulatory functions and arrangements to an independent body and has duly constituted the Bar Standards Board (BSB) for this purpose.

accordance with the four principles of Bar Training: flexibility, accessibility, affordability and high standards.²

6. For the avoidance of doubt, this MOU does not cover COIC's activities with the Bar Tribunal and Adjudication Service (BTAS) or COIC's resourcing of the Inns Conduct Committee (ICC). Such service level arrangements are set out separately.³ This MOU does not apply to the activities of the Inns of Court College of Advocacy (ICCA).
7. This MOU is not intended to be legally binding and no enforceable contract is being entered into by the Parties. The Parties agree to perform their allocated roles and responsibilities in accordance with this MOU, the law and any other relevant policies, rules and procedures which may be updated from time to time. This may include, for example, updates to the procedures for sharing data, or amendments and revisions to the BSB Handbook Part 4 Qualification Rules. The Parties agree to inform each other of changes to any relevant policies, rules or procedures and as applicable to consult each other on them or agree them between each other. Any changes or reviews of such documents will not necessarily lead to the MOU needing to be varied.

Effective Date

8. This MOU is effective from 1 April 2019 until further notice, subject to paragraph 46. Start and end dates for specific activities will be agreed between the Parties.

Roles and responsibilities

Student membership of an Inn

9. An individual must be admitted as student member of an Inn in order to complete compulsory aspects of training before Call to the Bar and to facilitate the fit and proper person checks that are required as part of that process. The BSB Authorisation Framework specifies the latest point for a student to become a member of an Inn of Court. It will be for each Inn to determine if a student should be allowed to join at an earlier point.
10. The Inns administer admissions and will have regard to the matters which are in the scope of the MOU when deciding their arrangements in respect of other aspects of student membership of an Inn.
11. The Inns shall publish comprehensive, accurate and up to date information in relation to:
 - Eligibility for and cost of membership;
 - Availability of and procedures for applying for scholarships and other possible contributions to costs of membership and qualification for the Bar;
 - Availability of relevant collegiate activities in London and outside London;
 - Feedback and complaints procedures for student members; and
 - The circumstances and processes for the termination of membership.

² A definition of these principles can be found in the BSB's *Authorisation Framework* for Authorised Education and Training Organisations.

³ Such service arrangements with the ICC are likely to be set out in the agreement between the BSB and COIC in respect of BTAS from 2019/20 onwards.

12. Application deadlines for membership and for scholarships or other financial assistance in relation to qualifying as a barrister should, as far as reasonably possible, be consistent across the four Inns.
13. The BSB and the Inns need to assure themselves that the arrangements in place support:
 - the BSB's principles of Bar training; and
 - the fulfilment of the BSB's and the Inns' objectives and obligations.

The BSB receives assurance regarding student membership of an Inn as set out in Schedule 4.

Administration of fit and proper person checks

14. The BSB and the ICC will agree guidelines for determining whether an individual is a fit and proper person⁴ and the Inns and/or the ICC will be responsible for incorporating these guidelines into their rules. Such consideration will include:
 - matters disclosed on admission to an Inn or at any point as student member; and
 - pre-Call declarations and checks.⁵

The BSB will be responsible for approving any revisions to ICC rules. Any relevant internal Inn rules must be consistent with the ICC Rules, including amendment as necessary.

15. The Inns and COIC administer the fit and proper checks at all stages. The BSB receives assurance on fit and proper person checks as set out in Schedule 4.

On admission to an Inn

16. Students complete an admission declaration when applying to become a student member of an Inn. This enables the Inn to identify any issues which may call into question whether they are a fit and proper person to practise as a barrister.
17. The BSB will agree with COIC and the Inns the content of the admissions declaration, which must be completed by students or others when seeking to join or re-join an Inn. The Inns shall use this to determine whether they are a fit and proper person to practise as a barrister and be admitted. If there is any doubt, the Inns shall refer the student to the ICC for a determination. For the avoidance of doubt, this does not prevent the Inns from requiring additional information to consider whether the applicant is a fit and proper person to become a member, subject to BSB Guidelines.
18. The Inns shall request from the BSB, at the point at which they receive applications for admission to an Inn from transferring lawyers and those seeking re-admission to an Inn, any information pertinent to their application. In relation to transferring lawyers, the BSB will request certificates of good standing and share any concerns with the Inns.

⁴ This will include applicants for admission and Call, as well as the duration of the student membership.

⁵ Criminal records disclosures will be made on admission via self-declaration and at Call via a 'Standard' DBS check, and/ or overseas equivalent.

Student conduct

19. Once a student is a member of an Inn, and before they are Called to the Bar, their conduct will be overseen, and any concerns managed, by their Inn to ensure that only those who are fit and proper to practise as a barrister can be Called to the Bar.
20. Matters of student conduct will be administered by each of the Inns for their student members. In doing so, the Inns and the ICC will refer to Guidelines developed by the BSB in consultation with them to determine whether an individual is a fit and proper person to become a practising barrister. The BSB will redirect any person seeking to report student misconduct to the BSB to the student's Inn.
21. If conduct matters are raised in respect of a student member, the relevant Inn will conduct an investigation in accordance with its internal disciplinary procedures and the ICC rules, referring to the ICC any matter that calls into question a student's fitness to become a practising barrister.
22. If, after investigation, a matter is not sufficiently serious to call into question fitness to become a practising barrister, the Inn may deal with it through internal disciplinary procedures. The ICC will comply with its obligations, as set out in a separate agreement⁶, when conducting hearings of either misconduct matters or appeals against an Inn's internal decision.
23. Decisions on misconduct matters should be shared with the student as soon as reasonably practicable after the conclusion of the proceedings. The outcome of decisions taken by the ICC shall be shared with the BSB in accordance with the data sharing protocol, attached at Schedule 3.

At Call to the Bar

24. To ensure that only those who are fit and proper persons to practise as barristers are Called to the Bar, the Inns undertake checks and seek declarations from each student prior to Call.⁷ The same requirement applies to those seeking readmission. These checks must include a standard DBS check (and/or the equivalent for those who have lived outside the UK for 12 months within a period of 5 years).
25. The BSB, COIC and the Inns agree required content of a Call Declaration, which must be completed by individuals prior to being Called to the Bar. This includes those who are seeking to be readmitted or transfer to the Bar.

Review and appeal

26. When the outcome of an internal conduct process or ICC hearing panel is communicated, an applicant (for admission or Call) must be informed about:
 - their right to have such decisions reviewed, as set out in the ICC rules;
 - how to make an application for review; and
 - the deadline for any application for review.
27. A student may apply for:

⁶ Expected to be the revised agreement between BTAS and BSB in 2019.

⁷ This includes the admissions and Call declarations, guidance for students on the fit and proper person checks and guidelines for the Inns and the ICC in making decisions as to whether the student is fit and proper.

- An internal decision of an Inn to be reviewed by the ICC;
- A decision of the ICC to be reviewed by an Independent Decision-making Panel, in accordance with BSB Handbook Part 4; and
- A decision of the Independent Decision-making Panel to be appealed to the High Court.

28. The BSB may appeal a decision of the ICC to the High Court⁸. Where appropriate an Inn may request that the BSB consider initiating an appeal.

Training

29. Staff or panel members involved in decision-making on matters of admission, readmission or student conduct, either at the ICC or the Inns, will have the necessary skills, experience and training to ensure proportionate, consistent and fair decision-making.

Funding

30. The Parties each agree to fund the administration of their roles and responsibilities for student conduct, which may include, but not necessarily be limited to, salaries, insurance, facilities and training costs.

Qualifying Sessions

31. Before being Called to the Bar, students (including transferring lawyers) are required to complete a minimum number of “Qualifying Sessions”. These are professional development events of an educational and collegiate nature which complement the vocational component of training for the Bar and foster a community of professional practice⁹.

32. Pursuant to rQ6.3 of the BSB Handbook, the BSB will set out from time to time in consultation with the Inns minimum requirements for the delivery of Qualifying Sessions. This will include the mandatory number of Sessions and approval of a framework for the delivery of and assurance in relation to the Qualifying Sessions, as set out in Schedules 2 and 4, respectively.

33. Any such framework must set out:

- How the programme of Qualifying Sessions meets the four principles underpinning Bar training;
- The requirement for learning outcomes relevant to the Professional Statement for barristers to be specified for each Qualifying Session;
- The themes around which the Qualifying Sessions will be designed;
- How the Inns will offer sessions outside London;

⁸ Section 24 Crime and Courts Act and rQ40 of the BSB Handbook.

⁹ See BSB Policy Statement March 2018.

https://www.barstandardsboard.org.uk/media/1935316/fbt_pupillage_af_and_car_policy_statement_-_may18.pdf

- Attendance requirements, including in relation to regional Qualifying Sessions and events which count for more than one session;
 - A requirement for diversity and inclusion to be systematically considered in the development of each Inn's Qualifying Session programme;
 - How any requests for waivers from Qualifying Sessions will be considered¹⁰; and
 - Quality assurance mechanisms and processes, including feedback from students and internal and external observers.
34. Each Inn shall develop a programme of Qualifying Sessions which adheres to this framework.
35. The Inns administer these arrangements and the BSB receives assurance regarding Qualifying Sessions as set out in Schedule 4.

Assurance

36. COIC (on behalf of the ICC) and the Inns will submit to the BSB an Annual Self-evaluation Report, reflecting the requirements of Schedule 4 and incorporating elements of external, independent review of education and training activity within the scope of this MOU. If the BSB identifies a risk to the regulatory objectives or to its principles of flexibility, accessibility, affordability and high standards through this assurance process it may seek further information from the Inns, including through undertaking visits to the Inns. The BSB will adopt a risk-based approach consistent with its procedures for regulatory supervision, ensuring it is proportionate to the activities undertaken.

Confidentiality and data protection

37. The Parties acknowledge that in the course of the activities covered by this MOU, a Party may come into possession of information confidential to the other Parties or third parties. Subject to any requirement on a Party to disclose confidential information to any court, tribunal or government authority with competent jurisdiction (including the Legal Services Board), the Parties undertake to maintain the confidentiality of such information in line with their duties under GDPR and other relevant legislation.
38. The Parties will comply with their responsibilities as set out in the Data Sharing Protocol at Schedule 3.

Liability and insurance

39. The Parties will ensure they have the benefit of appropriate and sufficient indemnity arrangements to cover the costs and liabilities that may arise under or connected with this MOU, including for example employers' liability insurance, public liability insurance and professional indemnity insurance. Each Party will indemnify the other Parties against any claim or liability arising from a failure by that Party to adequately fulfil its responsibilities under this MOU.
40. The Parties will notify each other if any indemnity arrangement or policy for any relevant insurances is (or will be) cancelled or its terms subject to any material change.

¹⁰ This arrangement is without prejudice to the BSB's power under rQ10 and rI5 of the BSB Handbook.

In the event that one of the Parties, acting reasonably, believes that the insurances or indemnity arrangements are not being maintained the Parties shall meet at the earliest opportunity to discuss alternative ways of ensuring that liabilities arising from failure to fulfil the roles and responsibilities set out in this MOU are adequately and appropriately insured against, and the Parties shall take any steps agreed as soon as practicable following such meeting. COIC and/or the Inns will take account of any disciplinary, criminal, employment or similar issues in considering the suitability of employees and others who fulfil responsibilities within the scope of this MOU.

41. The Parties will notify each other of other matters that might reasonably undermine public confidence in them.

Complaints

42. The Parties publish their arrangements for complaints about the administration of their roles and responsibilities under this MOU and keep a record of all written complaints. The BSB may seek information from the Inns and COIC regarding the handling of complaints they have received as part of the assurance arrangements set out in Schedule 4.

Review

43. The BSB undertakes to assist the other Parties to resolve any ambiguities or to advise on the nature of their responsibilities within the scope of this MOU promptly. The Parties also agree that any amendment to the MOU must be in writing and are effective only when signed by all Parties. The Parties agree that a review of Schedules or other associated guidelines and documents will not necessarily require a variation to the MOU.
44. The Parties will review this MOU annually, at a time mutually agreed between them. Any amendments to the MOU or Schedules will only be made with the agreement of all Parties.

Dispute resolution procedure

45. In the event of a dispute between the BSB and any of the other Parties arising out of this MOU, any of the Parties may inform the others in writing of the dispute, setting out full details. During any dispute all Parties will continue their performance of roles and responsibilities. Any dispute between the BSB and the other Parties will first be discussed by the signatories to this MOU at an ad-hoc meeting convened with the purpose of resolving the dispute at a time agreed between the Parties. In the event it is not possible to resolve the dispute, the BSB reserves the right to review the relevant aspects of its regulatory arrangements.

Termination

46. Notwithstanding any other provision of this MOU, the Parties may mutually agree in writing to terminate this MOU, and if the Parties so agree, they shall agree the date upon which that termination will take effect and any further terms upon which this MOU should be terminated. The Parties undertake to have particular regard in the event of termination to the best interests of student members of an Inn who have not yet been Called to the Bar, as well as any other ongoing legal obligations the Parties may have.

Publication

47. This MOU will be published on the website of the BSB. The BSB may with the prior consultation of the other Parties publish reports from time to time arising from its arrangements for regulatory assurance under this MOU.

Signature _____

Date _____

Baroness Tessa Blackstone
Chair of the Bar Standards Board

Signature _____

Date _____

Mr. Desmond Browne QC
President of the Council of the Inns of Court

Signature _____

Date _____

The Right Honourable Lord Justice Richard McCombe
Treasurer of the Honourable Society of Lincoln's Inn

Signature

Date

The Right Honourable Lord Anthony Hughes

Treasurer of the Honourable Society of the Inner Temple

Signature

Date

The Right Honourable Lord Justice David Bean

Treasurer of the Honourable Society of the Middle Temple

Signature

Date

The Right Honourable Lord Justice Irwin

Vice-Treasurer of the Honourable Society of Gray's Inn

BAR
STANDARDS
BOARD

REGULATING BARRISTERS

Schedule 1 to the Memorandum of Understanding:
Guidelines for determining if a person is fit and proper
to become a practising barrister

March 2019

CONTENTS

Introduction	3
General Principles.....	4
The ICC's authority in the event a matter which calls into question an individual's fitness to practise as a barrister is proved	5
Category 1 – Criminal offences	6
Category 2 – Other behaviour	6
Category 3 – Academic history	7
Category 4 – Regulatory history	7
Annex 2 – Guidelines on decision making.....	8
Evidence	8
Assessment of relevant information.....	8
Criminal offences.....	9
Other behaviour.....	14
Financial evidence.....	15
Academic history	16
Regulatory history	17

Introduction

1. This statement of principles and guidelines is written pursuant to rule Q6.2 in the Bar Standards Board (BSB) Handbook, which states:

The BSB shall set out in writing:

- *The requirements to be met by an Inn in admitting student members and Calling individuals to the Bar;*
 - *The manner in which an Inn shall assess whether such individuals are fit and proper.*
2. This document should be read alongside the BSB Handbook and the Memorandum of Understanding (the MOU) to which this document is attached. This document refers to either an Inn or the Inns Conduct Committee (ICC). In some circumstances, a requirement may be applicable to either or both Parties. In such circumstances, we refer to Inn/ICC.
 3. This document has been developed by the BSB, in consultation with the Council of the Inns of Court (COIC), the ICC and each of the Inns of Court. Its purpose is to set out the BSB's guidelines for the assistance of the Inns of Court and the ICC in determining whether persons are fit and proper to become a practising barrister. Additionally, the Inns and the ICC shall ensure that their own rules are drafted with reference to the guidelines, including any activities for admitting individuals to an Inn, overseeing conduct matters whilst a student member and Calling individuals to the Bar. These guidelines are intended to promote the use of good practice in processing and determining whether a person is fit and proper. Setting out these guidelines is intended to promote proportionality, consistency and transparency in decision-making. These guidelines are also intended to allow applicants, students and other interested parties to be aware of and, as required, to understand what factors will be considered by the Inns/ICC, in order to assist individuals with any declarations they are required to make and preparations for any hearings.
 4. This document contains several annexes which are integral to the guidelines. Annex 1 considers the type of conduct which is relevant in determining whether an individual¹ is a fit and proper person to become a practising barrister. Annex 2 sets out how the ICC will approach previous criminal convictions and cautions, and any other factors which may call into question whether an individual is fit and proper.
 5. In line with the MOU, the ICC will have special powers to act when determining whether a person is a fit and proper person. These are set out below.
 6. In line with paragraph 7 of the MOU, the Parties agree to utilise reviews to discuss any proposals for making amendments to these guidelines. Such proposals may be made by any of the Parties.
 7. The four Inns of Court and the ICC, where applicable, are required to determine:
 - At admission to an Inn and at Call to the Bar, whether a person is a fit and proper person to practise as a barrister;

¹ This includes applicants to an Inn, student members and those seeking Call to the Bar.

- In the case of a student member of an Inn, what sanction it is appropriate to impose if their conduct calls into question whether they are a fit and proper person; and
 - Reviews or appeals of such decisions taken.
8. This document is to be made publicly available on the websites operated by the BSB, Bar Tribunal and Adjudication Service (BTAS)² and each of the Inns. It is also freely available in hard copy from the ICC Administrator, upon request.

General Principles

9. To be a fit and proper person to practise at the Bar, that person is expected to be capable of upholding the Core Duties which underpin the behaviour expected of barristers. The Core Duties are:

CD1 - You must observe your duty to the court in the administration of justice.

CD2 - You must act in the best interests of each client.

CD3 - You must act with honesty, and with integrity.

CD4 - You must maintain your independence.

CD5 - You must not behave in a way which is likely to diminish the trust and confidence which the public places in you or in the profession.

CD6 - You must keep the affairs of each client confidential.

CD7 - You must provide a competent standard of work and service to each client.

CD8 - You must not discriminate unlawfully against any person.

CD9 - You must be open and co-operative with your regulators.

CD10 - You must take reasonable steps to manage your practice, or carry out your role within your practice, competently and in such a way as to achieve compliance with your legal and regulatory obligations.

10. By assessing whether an individual is a fit and proper person in accordance with the Core Duties, the following outcomes will be achieved:

Outcome 1 - if you are a barrister, you are a fit and proper person; and

Outcome 2 - you act so that clients, and the wider public, have confidence that you are a fit and proper person and uphold the reputation of the profession.

11. If an Inn, after becoming aware of a conduct matter, considers that the matter does call into question whether the individual is a fit and proper person to become a practising barrister, the matter must be referred to the ICC.

² See: <http://www.tbts.org.uk/policies-guidance-and-publications/rules-2/rules-for-the-inns-conduct-committee/>

12. In determining cases before it, the ICC will not re-open the decisions of other relevant bodies. The ICC shall treat a criminal conviction or caution of an individual, which has not been set aside on appeal or otherwise, as sufficient evidence of the commission of the offence in question. For the avoidance of doubt, a finding of misconduct by a regulatory, professional, or educational body exercising their regulatory, disciplinary or educational jurisdiction will be treated as sufficient evidence of the commission of the offence in question. However, the ICC may give such weight to that offence as it considers reasonable in all the circumstances.
13. The Inns/ICC, and in particular its members who constitute hearing panels to hear matters referred to them, should refer to Annexes 1 and 2 in considering each matter and ensure each matter is considered on a case by case basis.
14. In addition, in determining what, if any, sanction should be applied in the event that conduct which calls into question an individual's fitness to become a barrister is found proved, the guidelines in Annex 2 should be considered.
15. A person whose application for admission to an Inn has been rejected on the ground that that person is not a fit and proper person to become a practising barrister, or who has been expelled from an Inn because of an academic or disciplinary offence, may not apply for admission to an Inn unless a period of at least five years (or such other period as the BSB may determine in the particular case) has elapsed from the date of such rejection or expulsion.

The ICC's authority in the event a matter which calls into question an individual's fitness to practise as a barrister is proved

On application for admission to an Inn

16. If, having given due regard to these guidelines, the ICC finds an individual's conduct does call into question whether they are a fit and proper to practise as a barrister, it shall direct the Inn not to admit the individual. The ICC shall inform the individual as to their right to appeal and the process for doing so.

At any point as a student member

17. If, having given due regard to these guidelines, the ICC finds a student's conduct does call into question whether they are a fit and proper person, it may:
 - Advise the student as to future conduct; or
 - Reprimand the student; or
 - Order that the student's Call to the Bar be postponed for a specified period; or
 - Direct that the student be expelled from the Inn (in which case the Inn must expel the student).

Annex 1 – Fitness to become a practising barrister

1. To be eligible for admission to an Inn and Call to the Bar, an individual must be a fit and proper person to become a practising barrister. The test for determining if a person is a “fit and proper person” is that they are capable of upholding the Core Duties which underpin the behaviour expected of barristers.
2. There are a number of factors which could result in an individual not being considered fit and proper. These are separated into the following categories:
 - Category 1 – Criminal offences
 - Category 2 - Other behaviour
 - Category 3 – Academic history
 - Category 4 – Regulatory history

Category 1 – Criminal offences

3. The BSB requires applicants who are seeking admission, readmission or Call to the Bar to disclose criminal records in accordance with the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 ('the Exceptions Order') as amended by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013.
4. Criminal records disclosures are required at two separate points: at the point of admission to an Inn, via self-disclosure; and at Call to the Bar³, via a Standard DBS check. The DBS check will form part of the Fit and Proper Person checks required prior to Call to the Bar.

Category 2 – Other behaviour

5. Individuals should disclose any other matters (other than protected convictions and cautions), which might reasonably be thought to call into question their fitness to become a practising barrister.
6. The Inns/ICC will take into consideration if the individuals have:
 - 6.1. been responsible for behaviour:
 - which is dishonest;
 - which is threatening, violent or harassing;
 - where there is evidence of discrimination towards others;
 - 6.2. misused their position to obtain advantage;
 - 6.3. misused their position of trust in relation to a vulnerable person; and/or

³ The control used by the BSB, and administered by the Inns, to determine whether someone is a fit and proper person to become a member of the profession.

- 6.4. been responsible for other forms of behaviour which demonstrate that they cannot be relied upon to discharge their regulatory duties as a barrister.
7. Records of an individual's social media activities and publicly made comments may also be considered when assessing whether they are a fit and proper person. Comments designed to demean or insult are likely to diminish public trust and confidence in the profession and could be seen to be inconsistent with the Core Duties.
8. Individuals must declare if they have been declared bankrupt, entered into an Individual Voluntary Agreement (IVA), or have had a Relevant Order made against them.
9. A "Relevant Order" is an order which calls into question whether an individual is a fit and proper person to become a practising barrister, and would include, but is not limited to: a monetary judgment of a Court or tribunal; disqualification from being a director; a sexual offences notification requirement; a Community Protection Notice (CPN) or Criminal Behaviour Order (CBO); a non-molestation order; a financial reporting order; a sexual offences prevention order; disqualification from working with children; a football banning order; or a serious crime prevention order.
10. Any disclosures regarding treatment or a diagnosis for a condition (including an addiction to drugs or alcohol) which means the individual may pose a risk to any member of the public or which may impair their judgment as a practising barrister, will not automatically result in an application being refused. The Inns/ICC will consider the disclosures in light of the two outcomes set out in paragraph 10 of the introduction and any evidence provided.

Category 3 – Academic history

11. The Inns/ICC should take into consideration any previous academic or disciplinary findings against the individual by a higher education institution, particularly deliberate action which amounts to plagiarism or cheating to gain an advantage for themselves or others.

Category 4 – Regulatory history

12. The Inns/ICC will consider any previous or pending supervisory action, complaint, investigation, disciplinary proceedings or disciplinary findings against the individual by a professional or regulatory body, including in any jurisdictions outside England and Wales. This will also include whether they have:
 - failed to disclose information to a regulatory body when required to do so, or have provided false or misleading information;
 - been refused registration by a regulatory body; and/or
 - failed to comply with the reasonable requests of a regulatory body.

Annex 2 – Guidelines on decision making

Evidence

1. Where a disclosure has been made either via self-disclosure or via a DBS report, the ICC will consider all of the evidence and may consider the following evidence in particular, where relevant:
 - 1.1. references from at least two independent professionals who know the individual well, which must include a signed statement that the referee knows the purpose for which the reference is provided. Beyond the requirement for a signed statement as to the purpose of the reference, there is no requirement as to what the reference should contain. However, applicants and students should be aware that a reference which, on its face, records (a) the referee's awareness of any matters disclosed which might suggest that the applicant or student is not a fit and proper person and (b) the referee's evaluation of those matters when reaching the conclusion stated in the reference, may be accorded greater weight by the ICC;

Criminal offences

- 1.2. where appropriate and/or available, an independent report relating to the event(s), such as sentencing remarks following a criminal conviction;
- 1.3. evidence of any rehabilitation (e.g. probation reports, references from employers and/or tutors);
- 1.4. the individual's attitude towards the event(s);

Other behaviour (including financial)

- 1.5. credit check information (in relevant circumstances);
- 1.6. actions the individual has taken to clear any debts, satisfy any judgments and manage their finances;

Academic history

- 1.7. the extent to which the individual was aware of the rules and procedures governing the reference of material, or the use of group work or collaborative material; and
 - 1.8. the extent to which the individual could reasonably have been expected to realise that the offence did not constitute legitimate academic practice.
2. The onus is on the individual to provide any evidence they consider necessary and/or appropriate. The Inns/ICC reserve the right to carry out their own investigation and/or refuse the application/Call if adequate evidence is not forthcoming.

Assessment of relevant information

3. The Inns/ICC will assess any evidence (including any evidence provided by the individual) to assist their decision of whether the individual is a fit and proper person. The following factors will also be considered (where relevant):

- the individual's age at the time of the incident(s);
- the length of time which has passed;
- whether it was an isolated incident;
- whether there has been more than one incident;
- whether the incident(s) were linked to professional practice;
- whether use of drugs or alcohol was a factor; and
- whether the matter was disclosed to the individual's employer, educational establishment and/or regulator.

Criminal offences

4. If an individual discloses criminal conduct, the ICC must consider the mandatory three-stage assessment, as set out below:
 - Stage 1 - The classification of the offence (type of offence and the sentence imposed) or order (type and seriousness of the order and restrictions imposed); and
 - Stage 2 - The length of time which has passed since the sentence or restriction ended; and
 - Stage 3 - Consideration of any other factors, where applicable.
5. This staged assessment will assist the ICC in considering the disclosures of each individual on a case by case basis, along with a range of factors. These factors may include those set out in paragraph 3 of this Annex, in addition to the:
 - Nature;
 - Seriousness;
 - Pattern;
 - Circumstances at the time; and
 - Attitude towards the events.

Stage 1 - Classification of the offence or ancillary order

6. The table below classifies offences which may call into question whether the individual is a fit and proper person to become a barrister.
7. The starting point will be that a person will not be admitted to an Inn while subject to any portion of a custodial sentence, whether immediate or suspended.

Class 1	<ul style="list-style-type: none"> • Murder; • Inclusion on the Violent and Sex Offender Register; • Wounding/GBH with intent; • Rape/assault by penetration; • Association with terrorism; • Custodial sentence by reason of dishonesty, fraud, perjury, perverting or obstructing the course of justice, assisting an offender, intimidation, revenge and/or bribery; • Supply/possession with intent to supply/production/importation of any Class A drug; or • Unlawful use of a firearm/imitation firearm.
Class 2	<ul style="list-style-type: none"> • Conviction by a court of a criminal offence not falling within Class 1 but which the ICC considers might have an impact on whether the individual is capable of discharging the Core Duties; • Conviction by a court of more than one criminal offence (these could be less serious offences when considered in isolation but taken more seriously because of frequency and/or repetition); • Violence not involving deliberate intent to cause serious physical harm; • Serious Public Order offences; • Possession of Offensive weapon/Bladed article; • Firearms offences not in Class 1 (above); • Possession of Class A drugs; • Possession, production or supply of non-Class A controlled drugs; • Obstructing the course of justice; • Behaviour showing signs of discrimination towards others; • A pattern of increasingly serious behaviour (e.g. starting from a caution but moving through to convictions); • Sexual offences not in Class 1 (above); • Financial, insolvency and company management offences requiring proof of dishonesty; and • Acceptance of a caution for an offence involving dishonesty.
Class 3	<ul style="list-style-type: none"> • Road traffic offences where endorsement obligatory but not requiring mandatory disqualification;

	<ul style="list-style-type: none"> • Financial, insolvency and company management offences not requiring proof of dishonesty; and • The individual has more than once: <ul style="list-style-type: none"> i. Accepted a caution from the police for an offence not involving dishonesty ii. Received a Fixed Penalty Notice from the police, excluding motoring iii. Received a final warning or reprimand from the police (under 18s only) and/or iv. Received a referral order from the courts (under 18s only).
--	---

Class 1

8. In the case of offences in Class 1, the offences are extremely serious and, subject to stages 2 and 3, and any evidence provided, will normally result in a refusal of admission or expulsion.

Class 2

9. In the case of offences in Class 2, they can range from the extremely serious to the less serious. The ICC will use the assessment grid in stage 2, the considerations under stage 3 and any other evidence submitted to exercise their independent discretion to determine the appropriate outcome.
10. The decision which the ICC considers appropriate could therefore range (in the case of an individual) from refusal of admission, to admission with or without time delay and refusing the individual being Called. For example, a first-time offence for drink-driving only will not necessarily lead to non-admission or expulsion. A more serious view will be taken of a conviction involving a high blood alcohol limit, an element of personal injury being caused, dangerous driving or where it is accompanied by associated convictions (e.g. leaving the scene, driving while disqualified).
11. The ICC will have regard to mitigating circumstances put before it. In particular, a compelling emergency situation could be strong mitigation.

Class 3

12. As a starting point, a person who has committed a Class 3 offence will normally be admitted or permitted to proceed to Call (possibly after a specified period) or to continue their membership of their Inn.

Guidance note

13. Police can only issue a caution if there is evidence that the individual is guilty of an offence and they admit to committing the offence. Therefore, by accepting a caution, the individual has made an admission of guilt.
14. No admission of guilt is required to receive a fixed penalty notice, and by paying the penalty, a recipient discharges liability for conviction for the offence.

15. If an offence has been disclosed which is not listed within the classification grids above, the Inns/ICC will align it with other similar offences which have been listed within Class 1, 2 or 3.

Stage 2 - The length of time which has passed

16. The below assessment grid sets out the starting point for the ICC in considering the length of time which has passed since the sentence restrictions ended and the type of caution, warning, fine, discharge or sentence the individual received.⁴ This grid should be used for any Class of offence/order, whether 1, 2 or 3.

		Actual sentence/disposal (non protected)			
		Caution, warning, community resolution, absolute/conditional discharge, admonishment	Fine, community disposal	Suspended sentence	Imprisonment
Time since sentence or restriction ended	0 to < 12 months	CAF	CAF	Refuse	Refuse
	> 12 months to < 2 years	No sanction*	CAF	Refuse	Refuse
	>2 years to < 4 years	No sanction*	No sanction*	CAF	Refuse
	>4 years to < 7 years	No sanction*	No sanction*	CAF	CAF
	>7 years	No sanction*	No sanction*	No sanction*	CAF

CAF = Consider Additional Factors – See stage 3

< = less than or equal to

⁴ The use of a “starting point” is intended to guide the ICC in undertaking its assessment of an applicant’s particular circumstances.

>= greater than

* If the individual has ever received a conviction resulting in imprisonment of longer than 48 months, regardless of the time which has passed since the end of the sentence, they will always fall within the CAF category.

No sanction

17. If a matter falls within a 'no sanction' cell above, the expectation is that the ICC will not normally make a finding or impose a sanction against the individual. However, whilst the ICC will not normally look for information about a named individual, they reserve the right to consider information which is provided to them about the offence, even if the individual would otherwise fall within the 'no sanction' cell.

Refuse

18. If a matter falls within a 'refuse' cell above, the expectation is that the ICC will normally refuse an individual admission or Call or expel a student from the Inn. As above, the ICC may consider information provided to them which is relevant to the circumstances, even if the individual would otherwise be refused or expelled.

Imprisonment

19. Where an individual has received a prison sentence, the time since sentencing restrictions ended will be the number of months or years which have passed from the release date or licence period (where applicable). It is not from the date when the individual was sentenced or when the offence, or offences, were committed.

Suspended sentences

20. In the case of suspended sentences, the individual will be deemed to be free of sentence restrictions when the period of suspension expires. If the custodial sentence is activated, then it will be considered on the same grounds as any immediate custodial sentence.

Community disposals

21. In the case of community orders, community disposals and other similar sentences undertaken in the community, the individual is considered free of sentence restrictions at the end of the period of the order. If no date is given on the criminal records check, the individual will be considered free of sentence restrictions 12 months after the date of sentence. If the individual can provide evidence from an independent, verifiable source that the community disposal was discharged by the responsible body at an earlier date, the ICC will treat that earlier date as the date the individual was free from sentence restrictions.

Fines and other disposals

22. For fines, one day detention, cautions, warnings, community resolutions, absolute/conditional discharges, and admonishments, the individual will be considered free of sentence restrictions from the day after the sentence or disposal was imposed.

Ancillary orders imposed by the criminal court

23. In addition to sentence, the criminal courts have the power to impose various other orders which expire after the sentence that has been passed. These can include,

but are not limited to, a Sexual Offence Prevention Order, Football Banning Order and Criminal Behaviour Order. The ICC will consider the type of order and whether it is more appropriate in all the circumstances to calculate the end date for sentence restrictions as running from expiry of the order rather than the sentence.

Motoring offences

24. Motoring offences that result in a criminal conviction must be disclosed, excluding a fixed penalty offence under the Road Traffic Offenders Act 1988, an offence committed in the United Kingdom or abroad which is dealt with by a procedure substantially similar to that for such a fixed-penalty offence, or an offence whose main ingredient is unlawful parking of a motor vehicle.
25. Motoring offences that do not result in a criminal conviction do not need to be disclosed. The individual should disclose any disqualifications and offences relating to a breach of a Court order (e.g. driving whilst disqualified).

Stage 3 - Consideration of additional factors for offences

26. The ICC will assess the circumstances of each individual matter. They will be informed by a number of factors, including, but not limited to, the sentence imposed, the age of the individual at the time of the offence and any mitigating or aggravating facts and circumstances both of and since the offence (including the individual's attitude towards the offence). Examples have been included below:

Mitigating factors:

- Substantial passage of time since offending;
- Full disclosure of all facts at the earliest opportunity;
- Guilty plea and/or genuine remorse;
- Single offence, out of character;
- Good references as to good character over a long period;
- Personal progress since offending including significant voluntary work in the community.

Aggravating factors:

- Recent offending;
- Reticence as to facts and circumstances;
- Contesting a trial and/or lack of remorse;
- Commission of multiple offences, whether on a single or more than one occasion.

Other behaviour

27. A person found to have committed any act of dishonesty, not dealt with as a criminal offence, should be prepared to be expelled or refused admission or Call. Such dishonest conduct will include concealment of convictions, cautions or other

relevant matters in an application to join an Inn. Any past failure in making a declaration to an Inn will necessitate a full explanation from the individual as to why the failure occurred, in addition to the facts of whatever matter it was that should have been declared. A person found to have misused their position for advantage must similarly expect to be expelled or refused admission or Call.

28. Only where the conduct calls into question whether someone is a fit and proper person but the conduct is fully explained and there is genuine remorse for the dishonesty, will an alternative be considered. This may include, for example, whether the individual was offered support from their Inn when completing an admission declaration, given the challenges which may arise in accurately self-disclosing. Such challenges might include the individual being advised to obtain a copy of their police record under a subject access request, in order to discern which cautions and convictions are protected and therefore should not be disclosed.
29. All other non-criminal conduct will be considered on its particular facts, informed by the general principles.

Financial evidence

30. In the case of individuals, bankruptcies and other arrangements with creditors more than ten years old which have been discharged will not normally call into question a person's fitness to become a barrister.
31. In looking at cases where a person has been declared bankrupt (discharged or otherwise) or who has entered into an IVA or other debt arrangement, the particular circumstances will be examined. Factors in favour of such individuals will include:
 - Conduct not resulting in substantial financial harm to vulnerable creditors;
 - Circumstances beyond their control which could not have reasonably foreseen; and/or
 - Honest attempts to repay creditors.
32. In contrast, the ICC shall be particularly concerned about those who appear to have used the insolvency or an IVA or other debt arrangement in circumstances where none of the factors identified in paragraph 31 are present in order to escape the consequences of their own conduct. Evidence of dishonesty or unfair dealing with others will strongly indicate that a person is not fit and proper to be a barrister.

Directors' disqualification and other orders/injunctions limiting a person's conduct

33. Where an order limiting a person's conduct has been imposed, the ICC will first consider what its view is as to the conduct (whether criminal or non-criminal) that led to the imposition of the order and will make the appropriate decision as to the person's fitness, or whether the matter is serious enough to call into question a person's fitness to become a practising barrister and what action to take.
34. As a starting point, the ICC shall have consideration that:
 - A person will not normally be admitted while subject to a court order limiting their conduct;

- In such circumstances, admission will normally be delayed until at least three years from the end of the order; and
- A person made subject to such an order whilst a student can normally expect to be expelled. However, the ICC may also consider deferring Call.

Academic history

35. Academic misconduct encompasses various offences including plagiarism, collusion, impersonation, exam room misconduct, falsification of results and unethical research.
36. Unless there are exceptional circumstances, a person who has committed an academic offence where there is significant, deliberate and dishonest conduct will be refused admission to an Inn or expelled from the Inn and not permitted to proceed to Call.
37. Exceptional circumstances may include where the finding does not amount to cheating or dishonesty, e.g. incorrect referencing, or failure to attribute correctly, in an essay or paper.
38. However, the ICC recognises that a range of conduct may be encompassed in a finding of misconduct which can vary from one academic institution or course provider to another.
39. Because of the variation in terminology between institutions and the potential range of circumstances of academic offences, it is important that full disclosure be made by the person of all facts relating to the conduct under review by the ICC hearing panel. This will include all paperwork relating to that conduct, including all records of hearings and determinations of the relevant academic institution, insofar as they are available to the person.
40. In cases of exam room misconduct, an invigilator's report should be requested, where it is available. Since rules vary between institutions, a copy of the applicable assessment regulations should also be provided.
41. For the same reason, it is important and in the interests of the individual, that their fullest possible statement of facts and contentions should be made available in advance of the ICC hearing.
42. BSB Authorised Education and Training Organisations (AETOs) must have policies and procedures in place for academic and disciplinary misconduct and must, following conclusion of any investigations, report misconduct to a student's Inn.
43. Factors in favour of persons under consideration will include:
 - A first offence (unless this was an instance of significant, deliberate dishonesty);
 - Defective citation (use of small amounts of text not properly referenced or attributed) or minor instances of mutual assistance by students;
 - Prompt and candid admission of guilt;

- Evidence that the institution failed to make the academic regulations known to the student in advance of the offence;
- Inadvertent misconduct: for example, under some institutional regulations a finding of collusion might be made irrespective of whether a student granted access to their work. Similarly, a finding of exam room misconduct might be made irrespective of whether unauthorised materials were actually used;
- Circumstances/ mitigating evidence claims lodged at the institution indicating stressors in the life of the student/ applicant.

44. Factors against persons under consideration include:

- Reproduction of large amounts of text without attribution or reference. Many institutions will include a 'Turnitin' report which will include a similarity index. This figure indicates the percentage of work that has been recognised in other sources irrespective of whether it has been properly cited. Care should be taken to distinguish source material that has been properly cited from that which has not.
- Substantial and deliberate passing off of others' work;
- Knowing collaboration or collusion;
- A second or subsequent offence;
- Denial of guilt or blaming another;
- Cases of impersonation are tantamount to fraud and will be treated as automatically serious;
- Knowing obstinacy or failure to cooperate with the institution's investigation.

45. In cases of collusion between two or more students, consideration will be given to whether each should be required to appear separately before the ICC.

Regulatory history

46. In assessing an individual's fitness, careful attention will be given if there is any professional disciplinary finding or proceedings. Whilst the precise circumstances of each case will be important, a finding of serious misconduct in another profession will often prevent a finding that a person is fit and proper to become a practising barrister. However, this may be mitigated in circumstances where the individual received a rebuke, reprimand or warning about their conduct by a regulatory body.
47. Where a matter is pending (by another body), a decision should not be made by the Inns/ICC until they receive confirmation that the matter(s) has either been concluded with no further action or the outcome of the matter is known.

BAR
STANDARDS
BOARD

REGULATING BARRISTERS

Schedule 2 of the Memorandum of Understanding:
Framework for the provision of Qualifying Sessions

March 2019

Introduction

1. This document provides a framework for delivering Qualifying Sessions in line with the terms of the Memorandum of Understanding and accompanying schedules (MOU) between the Council of the Inns of Court (COIC), each of the Inns of Court and the Bar Standards Board (BSB). The aim of this framework is to ensure co-ordination and unification of procedures between the Inns while acknowledging differences in the character and mode of delivery of Qualifying Sessions by individual Inns. The Inns will develop common rules to give effect to this framework and to ensure consistent consideration of applications for waivers. The Parties will review this framework in accordance with provisions of the MOU.

Context for a new framework for Qualifying Sessions

2. This framework has been developed to give effect to rQ6.3 in the BSB's Qualification Rules (Part 4 of the BSB Handbook) which states that "the BSB shall set out in writing the minimum requirements for the delivery of Qualifying Sessions by an Inn." It has also been developed with regard to the Professional Statement for Barristers, and the four principles of Bar Training: accessibility, affordability, flexibility and high standards.

Why we have Qualifying Sessions

3. Qualifying Sessions form a vital part of a student's journey in training to become a barrister. All students who undertake vocational training for the Bar are required to be members of an Inn. Qualifying Sessions, which take place alongside a student's vocational training, provide opportunities for professional and ethical development which complements and builds on a student's academic and vocational education and forms a bridge to the final component of Bar training, pupillage. Qualifying Sessions also provide opportunities for a student to enhance their understanding of the role of barristers in the wider justice system and the rule of law.
4. Mixing with practitioners, discussing the practical and ethical elements of being in practice – whether in the self-employed or employed Bar – and practising professional skills in front of practitioners provides a level of reality, and an extra stimulation to learning which complements students' vocational training. Students need time to reflect on and assimilate what they have learned and experienced. Through the provision of both practical and knowledge-based sessions, delivered by specially selected and trained members of the profession and experts, the Inns help equip students to undertake the next stage of training and to be fit and proper to serve the public as barristers. The links made with the profession through the Inns provide students with a foundation for pupillage and work-based learning but also for a career at the Bar thereafter.

What are Qualifying Sessions?

5. There is no set format for a Qualifying Session, but all Qualifying Sessions will have educational content and will provide the opportunity for students to engage with the Inn's community of practitioners and/or relevant experts. Qualifying Sessions will help students acquire one or more of the knowledge areas, skills or attributes set out in the BSB's Professional Statement but may also cover more general topics related to the wider workings of the Bar, the administration of justice and the public interest it serves. Additionally, Qualifying Sessions may be used to help students prepare for practice and develop a career whilst addressing wider wellbeing issues in the context of the practising Bar, taking into account issues of contemporary importance.

Qualifying Session Programme

6. Each student must attend a minimum of ten Qualifying Sessions, organised by the Inns of Court, in order to provide sufficient opportunity for them to meet with and learn from a variety of practitioners, judges and experts and thereby facilitate integration into the 'community of practice'.
7. Programmes of Qualifying Sessions are designed to be accessible and flexible. Working towards these principles, the Inns shall develop programmes which take into account the need for greater provision outside of London. The Inns may deliver Qualifying Sessions jointly. Students must attend a minimum of one session under each of the themes outlined below and at least two sessions must be interactive and require preparation in advance.
8. The five themes, which cover all aspects of the skills and knowledge students need to learn as part of their training for the Bar, are:
 - Ethics, Standards and Values;
 - Advocacy Skills;
 - Legal Knowledge, Justice and the Rule of Law;
 - Equality, Diversity and Inclusion; and
 - Preparation for Pupillage, Career Development and Wellbeing
9. Each Inn will develop and publish a programme of Qualifying Sessions prior to each term with learning outcomes for each Qualifying Session set out in advance.
10. Students will be made aware of each Inn's programme of Qualifying Sessions, including clear information about what the themes, activities and learning outcomes will be, and the cost of attending each Session.

Attendance at Qualifying Sessions

11. Students, including transferring lawyers and specially qualified applicants, must complete all mandatory Qualifying Sessions prior to being Called. The Inns will each maintain records of the Qualifying Sessions completed by each student. The Inns will make available to the BSB student records at the BSB's request.
12. The Inns will develop their programme of Qualifying Sessions outside of London (not including the South East Circuit) to promote accessibility for all students. Such Qualifying Sessions will comply with this schedule and the rules accompanying this document.
13. Attendance at an Inn's education and training event may count for more than one Qualifying Session. It is for each Inn to determine the number of Qualifying Sessions awarded for attendance at an event on the basis of content and learning outcomes and in accordance with common rules to be developed.
14. Attendance at a student's Call ceremony and the accompanying event will not count as a Qualifying Session. Attendance at a dinner alone will not count as a Qualifying Session.
15. Attendance at a Qualifying Session will not be counted unless the student has paid the prescribed fee (where applicable) and has participated in the whole of the event as required.

16. Subject to the paragraph 17 below, a student must attend ten Qualifying Sessions during a period of no more than five years ending on the date on which that person is Called to the Bar.
17. An Inn may, on an application showing such exceptional grounds as satisfy criteria to be agreed by all four Inns, waive or modify the requirements to attend Qualifying Sessions.

Quality Assurance

18. In order to ensure high standards of delivery and consistency across the Inns, a variety of quality assurance measures will be put in place utilising feedback from students and internal observers. A programme of external observation will also be developed.
19. Feedback collected from students should make use of a core set of questions that will be common across the Inns, though each Inn may add other questions if they wish.
20. Feedback will also be obtained from internal observers, who will attend a cross-section of sessions delivered by each Inn across a broad range of different themes and types of Qualifying Sessions. Observers will complete a form which will include a core set of questions common to all Inns, though as with student feedback each Inn may also add other questions if they wish.
21. COIC and the Inns will develop a programme of external observation and review in order to assure quality, from independent observers. Common assessment forms will be used by the observers for the visits across the Inns.
22. The quality assurance programme will accord with Schedule 4 of the MOU.

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

Data Sharing Protocol for the sharing and disclosure of information between

The Bar Standards Board

And

The Council of the Inns of Court

And

The Honourable Society of The Inner Temple

And

The Honourable Society of The Middle Temple

And

The Honourable Society of Gray's Inn

And

The Honourable Society of Lincoln's Inn

Contents	
Purpose	3
Background.....	3
Definitions	4
Information governance	4
The personal data to be shared	5
Retention of shared personal data.....	6
Destruction and disposal of shared personal data	7
Data security.....	7
Procedures for dealing with access requests, queries and complaints	8
Review	8
Resolution of conflicts	8
Personal data breaches	9
Indemnity	10
Failing to comply with the data sharing protocol.....	10
Publication	10
Annex 1 – The personal data to be shared.....	11
Annex 2 - Data Protection Officer/Lead.....	16

We can provide our literature in different formats. If you require this information in a different format, please contact us on contactus@barstandardsboard.org.uk or 020 7611 1444.

Purpose

1. This document ('the Protocol') provides a framework for the collection, sharing, retention and destruction of information between the independent data controllers; the Bar Standards Board (BSB), the Council of the Inns of Court (COIC) and each of the four Inns of Court: Inner Temple, Middle Temple, Gray's Inn and Lincoln's Inn. This is to support the BSB in the administration of its regulatory functions and to provide quality assurance to obligations administered by the Inns of Court and COIC are done so effectively.
2. The Protocol should be read in conjunction with the Memorandum of Understanding (MoU) between COIC, the four Inns and the BSB which sets out the responsibilities of the Parties relating to the education and training for the Bar, and any statutory, regulatory or other policies and statements which apply¹.

Background

3. In accordance with the guidance from the Information Commissioner's Office (ICO) and the BSB's Information Security Policy, we set out below the background for the introduction of this Protocol.
4. The sharing of personal data set out in this Protocol is necessary to ensure that the BSB has adequate regulatory oversight of students, barristers and the responsibilities of COIC and the Inns, as set out in the MOU. The sharing and use of the personal data is, therefore, necessary for the performance of a task carried out in the public interest and in the exercise of the BSB's authority under the Legal Services Act 2007. The Parties may also share special category data, as it relates to the individual's health² and criminal records information, as the Legal Services Act 2007 requires the BSB to protect and promote the public interest (e.g. protecting the trust and confidence the public places in the profession that only those who are fit and proper are Called to the Bar).
5. The risks of transferring shared personal data include a risk of security breaches. However, this is mitigated by the robust security policies and measures which each Party has in place. There is also a risk that we do not use the shared personal data in line with the GDPR requirements. This risk is mitigated by the Parties upholding this Protocol and their obligations within the MOU.
6. The Parties agree that the shared personal data set out in Annex 1 is the least amount of personal data required to be shared to ensure the BSB is assured that their regulatory functions are administered satisfactorily. This also sets out the purpose for which the personal data is shared between the Parties.

¹ The Privacy Statement which applies to the BSB can be accessed here: <https://www.barstandardsboard.org.uk/footer-items/privacy-statement/>

² For example, this may be shared as part of the ICC hearings, following a disclosure by an applicant in the admissions declaration.

7. Annex 2 sets out the individuals who are the nominated Data Protection Officers/Leads (DPO) and therefore have responsibility to ensure that only those who require access to the shared personal data are able to do so.

Definitions

Bar Standards Board – means the independent regulatory body of the General Council of the Bar of England and Wales

Data controller - means a person who (either alone or jointly or in common with other persons) determines the purposes for which, and the manner in which, any shared personal data is processed³.

Data processor in relation to shared personal data - means any person (other than an employee of the data controller) who processes the shared personal data on behalf of the data controller⁴.

Data Protection Officer/Lead – referred to as DPO throughout the document means the nominated individual within each Party who oversees the Party's processing of shared personal data and ensures it is complying with its data protection obligations under the Data Protection Legislation, including the Data Protection Act 2018 (DPA) and the General Data Protection Regulation (GDPR).

COIC – means the Council of the Inns of Court and includes the Inns Conduct Committee and the Bar Tribunals and Adjudication Service.

Inns of Court – means each of the four Inns of Court; the Honourable Society of The Inner Temple, the Honourable Society of The Middle Temple, the Honourable Society of Gray's Inn and the Honourable Society of Lincoln's Inn.

Memorandum of Understanding – means the document agreed between the BSB, COIC and the four Inns of Court in relation to education and training for the Bar.

Party – means one of the BSB, COIC, or the Inns

Parties – means more than one Party

Permitted Recipients - The parties to this agreement, the employees of each party, any third parties engaged to perform obligations in connection with this agreement.

Personal Data Breach – has the meaning set out in the Data Protection Legislation

Processing - means any operation or set of operations which is performed on shared personal data or on sets of shared personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation, or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction

Shared Personal Data - The personal data to be shared between the parties under Annex 1 of this agreement. 'Personal data to be shared' will be construed accordingly.

Information governance

³ In accordance with the Data Protection Legislation, including the Data Protection Act 2018 and General Data Protection Regulation

⁴ Ibid

8. Each party shall comply with all the obligations imposed on a controller under the Data Protection Legislation.
9. Where there is a need to make a public statement about the exchange of information, e.g. as a result of a press enquiry, the Parties may liaise with each other before finalising the individual statements each Party will make.
10. The Parties agree to the following responsibilities. This has been specified in more detail in Annex 1:
 - a) Data controller – Each Party; the BSB, COIC and the Inns of Court are independent data controllers.
 - b) DPO – Representative individual/s within each Party who is accountable for:
 - i. ensuring that they understand the types of information received, generated, stored and transferred for their area of work; and
 - ii. ensuring the shared personal data and information is managed in accordance with this policy and any other relevant policies and statutory requirements relevant to each Party.
11. The Parties agree that their DPOs will at all times comply with the DPA & GDPR complying with the above obligations, the DPO for each Party will have due regard to the risk associated with processing operations, taking into account the nature, scope, context and purposes of processing.

Information sharing

12. Each party acknowledges that one party (the Data Discloser) will regularly disclose to the other party (the Data Recipient) shared personal data collected by the Data Discloser for the purposes for which it is shared.
13. The Parties agree that where personal data is shared and disclosed its use is restricted to regulatory purposes unless onward disclosure to other agencies is necessary in the public interest and is lawful.
14. The Parties have a requirement under the Data Protection Legislation including the DPA and GDPR to provide data subjects with a Privacy Notice. All Parties agree to include details of this Data Sharing Protocol within their respective Privacy Notices.
15. The Parties agree to identify points of contact in their respective organisations to facilitate the sharing and disclosure of information. This is set out in Annex 2.
16. The Parties will exchange information to the extent permitted by law, and in a timely fashion, to enable each other to process it according to their own internal procedures. The Parties will disclose the shared personal data with other organisations in accordance with their respective privacy policies.

The personal data to be shared

17. Each party shall:

- a) ensure that it has all necessary notices and consents in place to enable lawful transfer of the shared personal data to the permitted recipients for the purpose for which it is shared; and
 - b) give full information to any data subject whose shared personal data may be processed under this agreement of the nature of such processing. This includes giving notice that, on the termination of this agreement, shared personal data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees as relevant; and
 - c) use any templates specified by another Party, where practicable, for the sending of shared personal data.
18. The Parties shall not transfer any shared personal data received from the Data Discloser outside the EEA unless the transferor:
- a) complies with the provisions of Articles 26 of the GDPR (in the event the third party is a joint controller); and
 - b) ensures that (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 GDPR; (ii) there are appropriate safeguards in place pursuant to Article 46 GDPR; or (iii) one of the derogations for specific situations in Article 49 GDPR applies to the transfer.
19. The shared personal data collected and stored by each Party is set out in Annex 1 and should be used for the stated purposes only, and in accordance with relevant statutory, regulatory and policy provisions.
20. The Parties agree to inform individuals who provide their data which is shared under this Protocol of the existence of this protocol. The BSB will do this through a Privacy Notice and COIC and the Inns through their Privacy Notices and Data Protection Policies.

Retention of shared personal data

21. In accordance with statutory requirements, the Parties shall only retain shared personal data for as long as is necessary for the legitimate purposes for which the shared personal data is processed (which may be different for each party), unless the retention of the shared personal data is required for archiving purposes which are in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89 (1) of the GDPR or other applicable provisions under the Data Protection Legislation. This period is determined by the DPO within each Party.
22. Each Party should ensure that when those legitimate purposes come to an end, the Parties shall securely delete the shared personal data.
23. The Parties agree to regularly review the shared personal data held to ensure adherence to this policy and to ensure it is kept up to date and accurate.

Destruction and disposal of shared personal data

24. The Parties are responsible for ensuring that shared personal data is destroyed securely, having regard to the relevant statutory and regulatory requirements and the timeframes set out in this Protocol.
25. Under no circumstances should paper documents containing shared personal data be placed into general refuse as to do so risks the unauthorised disclosure of such information to third parties. Such disclosure would be a breach of the Data Protection legislation.
26. Paper documents must be destroyed on site (e.g. by shredding) or placed in the specially marked "Restricted Waste", or similar, containers/bags within the Parties' buildings.
27. The Parties will ensure that electronic documents are deleted to the extent that they are virtually impossible to retrieve. In the case of electronic systems such as Case Management Systems, only individuals with the necessary authority will be able to delete information to the required extent.
28. Set out below are the key considerations for the retention and disposal of shared personal data:
 - a) the nature of the shared personal data (paper or electronic) and which sections of the shared personal data will be destroyed;
 - b) whether the shared personal data must be retained to fulfil any statutory and/or regulatory requirements;
 - c) whether the shared personal data should be retained in case of a dispute; and
 - d) whether the shared personal data should be retained to meet the operational needs of the Parties and if so, whether this can be achieved by redacting the personal information; and
 - e) whether the risks of retaining or destroying the information have been properly assessed.

Data security

29. The Parties will ensure that they have in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of shared personal data and against accidental loss or destruction of, or damage to, shared personal data. This includes, but is not limited to, the below measures:
 - a) In accordance with section 32(1) of the GDPR, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, the Parties will implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including, as appropriate:
 - i. the encryption of shared personal data;

- ii. the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
- iii. password protecting documents;
- iv. the ability to restore the availability and access to shared personal data in a timely manner in the event of a physical or technical incident;
- v. a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.

Procedures for dealing with access requests, queries and complaints

- 30. Individuals should submit a subject access request to each organisation they are seeking their shared personal data from. Each Party shall provide contact details for their DPO to support liaison between the Parties, should this be required and permissible, as set out in Annex 2. The DPO shall also be the first point of Call to whom any queries and complaints should be sent.
- 31. The Parties' obligations to comply with the above rights are subject to certain exemptions in the Data Protection Legislation.
- 32. The data subject also has the right to complain to the ICO if they are not satisfied with the way the Parties use their information. The data subject can contact the ICO by writing to Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Review

- 33. The Parties agree that the Protocol will be effective by 1 September 2020.
- 34. The Parties will monitor the operation of the Protocol and formally review it every year. Meetings to discuss any issues arising will be held as necessary to monitor its effectiveness.
- 35. The purpose of these meetings is to:
 - a) provide feedback on the quality of the sharing and disclosure of information;
 - b) review the effectiveness of processes in place to support the sharing and disclosure of information;
 - c) discuss issues of wider concern that may impact on how the Parties operate together;
 - d) alert each other to and discuss emerging trends, issues, risks or other activities that may be of interest; and
 - e) discuss any other issues of concern to either of the Parties.

Resolution of conflicts

36. The Parties will cooperate with each other if a dispute arises under this Protocol. Parties will seek to:
 - a) avoid disputes arising in the first instance; and
 - b) settle disputes amicably if/when they do arise.
37. Where disputes do arise, the points at issue need to be fully documented in a format readily understood by a third party. Where necessary, disputes will be referred to the senior management in the respective Party for resolution.
38. Any problems or concerns in an individual case of information sharing should be channelled via the designated individuals, in Annex 2, who will seek to resolve the matters. In the event that the issues cannot be resolved, the matters will be escalated via the relevant line management chain of each Party.

Personal data breaches

39. Any actual or suspected Personal Data Breach (of shared personal data) must be reported to the relevant DPOs (for the Party where the breach occurred and the Party(ies) who supplied the information) immediately upon becoming aware of such breach, so that the Parties can comply with their accountability obligations under the DPA and GDPR. They will be responsible for ensuring that the protocols in place within their own organisation will be adhered to.
40. Those individuals within the Parties who will have access to the shared personal data set out in Annex 1 will receive adequate training to enable them to recognise when there may be a Personal Data Breach (of shared personal data) and know how to escalate the incident to the appropriate person, or team, within their Party to determine whether a breach has occurred.
41. Each Party agrees to prepare an action plan for addressing any Personal Data Breaches (of shared personal data) that occur within their organisation, including having a process to assess the likely risk to individuals as a result of a breach. This should be done on a case by case basis.
42. Each Party will allocate responsibility for managing Personal Data Breaches (of shared personal data) to a dedicated person or team within their organisation who will be aware of:
 - a) The relevant supervisory authority for the processing activities which the Parties undertake;
 - b) The process to notify the ICO, if necessary, and the other Parties of a breach within 72 hours of becoming aware of it, even if all the details are not known;
 - c) What information must be provided to the ICO as a result of a breach, if the breach meets the criteria for being reported;
 - d) The process to inform affected individuals about a breach and what information about the breach must be provided to them, if the breach meets the criteria for being reported; and

- e) The requirement to document all breaches, even if they don't need to be reported⁵.
43. The Parties agree to review the Protocol in light of the breach. Any significant changes required as a result of the breach should be publicised.

Indemnity

44. Each party shall indemnify the other against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the indemnified party arising out of or in connection with the breach of the Data Protection Legislation by the indemnifying party, its employees or agents, provided that the indemnified party gives to the indemnifier prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it.

Failing to comply with the data sharing protocol

45. Following notification of a breach of the Data Protection Legislation by a party to this protocol, and reporting to the ICO, where appropriate, the Parties may review the breach together and recommend remedial actions to avoid such breaches in the future.

Publication

46. The Protocol is a public document and the Parties may publish it as they see fit.

⁵ <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/personal-data-breaches/>

Annex 1 – the personal data to be shared

It is noted that contact details are subject to change and therefore the Parties shall provide this data on a best endeavours basis at the point specified in this Annex.

Personal data to be shared by the Inns to the BSB before Call				
	The information to be collected	How it will be collected	What it will be used for	When will it be shared
Admission to an Inn				
1	When a lawyer is seeking to transfer or be readmitted to the Bar: 1. MyBar number (if available); 2. Name 3. Date of birth 4. The Inn they are admitted to	Spreadsheet	Used by the BSB to check our records so we can share any matters which may question whether they are a fit and proper person	Within 10 working days of the application
Fit and proper person checks on admission to an Inn and, or prior to Call				
2	For hearings at the ICC: 1. MyBar number (if available); 2. Name; 3. Date of birth 4. The category of conduct; 5. Detail of the conduct ⁶ 6. The outcome of the hearing	Spreadsheet	Used by the BSB to determine whether to appeal an ICC hearing to the High Court.	Within 14 working days of the outcome of the ICC hearing.

⁶ This may include the length of time over which the conduct occurred, special category data and criminal convictions

3	<p>In accordance with the assurance process, the BSB may request a sample of any fit and proper person decisions and require:</p> <ol style="list-style-type: none"> 1. MyBar number (if available); 2. Name; 3. Date of birth; 4. The category of conduct; 5. Detail of the conduct⁷; and 6. The outcome of the hearing. 	Spreadsheet	Review by the BSB to satisfy itself that fit and proper person checks are being conducted correctly against the relevant Guidelines to promote consistency in decision making and identify improvements.	Within 14 days of a BSB request as part of their assurance (as set out in schedule 4 of the MOU).
At Call				
4	<ol style="list-style-type: none"> 1. MyBar number (if available); 2. Name; 3. Date of birth; 4. Date of admission; 5. Inn admitted to; 6. Date of Call; 7. Email address; and 8. Contact number. <p>In accordance with Schedule 2 of the MOU, the BSB reserves the right to review a student's record to satisfy itself that the requirements of qualifying sessions have been complied with. This will not contain any additional personal data to the above.</p>	Spreadsheet	Included on the individual's record so the BSB knows the Inn they are a member of and when they have been Called.	Within 7 working days of Call

⁷ This may include the length of time over which the conduct occurred, special category data and criminal convictions.

Personal data to be shared by the Inns to the BSB after Call				
	The information to be collected	How it will be collected	What it will be used for	When will it be shared
5	Barristers seeking voluntary disbarment 1. MyBar Number (if available); 2. Name; and 3. Date of birth.	By email	The BSB to check whether we have details of ongoing conduct investigations and to provide this to the Inns	Within 7 working days of being notified that the barrister wishes to voluntarily disbar
6	Name change details 1. MyBar Number (if available); 2. Name; and 3. Date of birth.	By email	To ensure the practising data is up to date	Within 7 working days of notification to the Inn's and provision of name change documentation

Personal data to be shared by the BSB to the Inns before Call				
	The information to be collected	How it will be collected	What it will be used for	When will it be shared
7	For transferring lawyers and those seeking readmission: 1. Name; 2. Date of birth; 3. Any factual information which may question whether they are a fit and proper person,	Email	The Inns/ICC can use the information at the hearing	Within 7 working days of the request

	<p>following a request from the Inn as set out in line 1⁸.</p> <p>This may include:</p> <ul style="list-style-type: none"> • The original finding that led to the disbarment • Withdrawn or dismissed cases⁹ • Certificates of good standing • Disciplinary action by another regulator • Concerns over fraudulent certificates 			
8	<p>Enrolment spreadsheet showing the number of students enrolled at each Inn, subdivided by:</p> <ul style="list-style-type: none"> • Student name; • MyBar number if available • Date of birth; • AETO (Provider/Site) • The Inn the student is a member of 	Spreadsheet	So that the Inns hold the details of a student's vocational provider and to facilitate the administration of Fit and Proper Person Checks and Qualifying Session Programmes	Within 7 working days of the BSB receiving this personal data from the provider.
9	<p>Bar Transfer Test (BTT) pass list</p> <ul style="list-style-type: none"> • Name • Email address • Home address • Date they passed the BTT 	Spreadsheet	So that the Inns are able to admit and Call students	Within 7 days of the BSB receiving the pass list.

Personal data to be shared by the BSB to the Inns after Call				
	The information to be collected	How it will be collected	What it will be used for	When will it be shared

⁸ This may include special category data or criminal convictions

⁹ These matters may have been withdrawn or dismissed because they relate to the same barrister who was disbarred but it was decided not to pursue an investigation or hearing, in addition to the disbarment matter

10	Details of any ongoing conduct investigations for individuals who are seeking voluntary disbarment	By email	The Inns will use the shared personal data to consider whether the individual should be allowed to voluntarily disbar or whether this should be postponed until the outcome of any investigations	Within 7 days of being notified that the barrister wishes to voluntarily disbar
----	--	----------	---	---

Annex 2 - Data Protection Officer/Lead

Figure 1 – Data Protection Officer/Lead at the BSB - This table sets out the contacts at the BSB through which contact between the Parties will be channelled.		
Data Protection Officer/Lead	The shared personal data below is that which the DPO is responsible for responding to data access requests, queries or complaints.	The shared personal data below is that which the DPO is responsible for determining the individuals within their team who can access the shared personal data.
Head of Training Supervision & Examinations	<ul style="list-style-type: none"> • Student Membership information 	<ul style="list-style-type: none"> • Student Membership information
Head of Authorisation	<u>Authorisations</u> <ul style="list-style-type: none"> • Applications to Inns by pupil supervisors • Misconduct matters for transferring lawyers 	<u>Authorisations</u> <ul style="list-style-type: none"> • Applications to Inns by pupil supervisors • Misconduct matters for transferring lawyers
Head of Supervision		<u>Supervision</u> <ul style="list-style-type: none"> • Student conduct
Records manager		<ul style="list-style-type: none"> • Membership information
Head of Investigations and Hearings	<ul style="list-style-type: none"> • Student conduct • Individuals seeking voluntary disbarment • Conduct matters for voluntary disbarment • Applications to Inns by pupil supervisors 	<ul style="list-style-type: none"> • Student conduct • Individuals seeking voluntary disbarment • Conduct matters for voluntary disbarment • Applications to Inns by pupil supervisors
Head of Research and Information ¹⁰		<ul style="list-style-type: none"> • All of the above

Figure 2 – Data Protection Officer/Lead at COIC - This table sets out the contacts at the BSB through which contact between the Parties will be channelled.

¹⁰ The Head of Research and Information will be responsible for determining the individuals within their team who will need access to the data which will be shared by COIC and the Inns to provide reports as required. However, as they are not the Data and Information Owners of the data, as this is held by the other individuals identified within Figure 1, they will not be responsible for channelling the contact between the Parties or responding to data access requests, queries or complaints in the first instance. This will be directed to the other individuals listed above, who may delegate as they consider necessary.

Position held	DPO are the designated contacts for the different sets of shared personal data and for responding to data access requests, queries or complaints.	DPO responsible for determining the individuals within their team who can access the sets of shared personal data.
Director of Operations	All	All

Figure 3 – Data Protection Officer/Lead at The Inner Temple - This table sets out the contacts at the Inner Temple through which contact between the Parties will be channelled.

Position held	DPO are the designated contacts for the different sets of shared personal data and for responding to data access requests, queries or complaints.	DPO responsible for determining the individuals within their team who can access the sets of shared personal data.
Membership Registrar	All	All

Figure 4 – Data Protection Officer/Lead at The Middle Temple - This table sets out the contacts at the Middle Temple through which contact between the Parties will be channelled.

Position held	DPO are the designated contacts for the different sets of shared personal data and for responding to data access requests, queries or complaints.	DPO responsible for determining the individuals within their team who can access the sets of shared personal data.
Director of Corporate Services	All	All

--	--	--

Figure 5 – Data Protection Officer/Lead at Gray’s Inn - This table sets out the contacts at Gray’s Inn through which contact between the Parties will be channelled.		
Position held	DPO are the designated contacts for the different sets of shared personal data and for responding to data access requests, queries or complaints.	DPO responsible for determining the individuals within their team who can access the sets of shared personal data.
Director of Finance	All	All

Figure 2 – Data Protection Officer/Lead at Lincoln’s Inn - This table sets out the contacts at Lincoln’s Inn through which contact between the Parties will be channelled.		
Position held	DPOs are the designated contacts for the different sets of shared personal data and for responding to data access requests, queries or complaints.	DPOs responsible for determining the individuals within their team who can access the sets of shared personal data.
Assistant Under Treasurer	All	All

BAR
STANDARDS
BOARD

REGULATING BARRISTERS

Schedule 4 to the Memorandum of Understanding:
Assurance Framework

March 2019

This Schedule accompanies and sets out arrangements in fulfilment of paragraph 36 of the Memorandum of Understanding (MOU).

Introduction

1. This guidance sets out the assurance arrangements in relation to the activities of the Council of the Inns of Court (COIC), the Inns Conduct Committee (ICC) in particular and the Inns within the scope of the MOU. The Parties may review and change the approach taken to assurance from time to time by mutual agreement.

Annual Self-evaluation Report

2. Each Inn of Court and the ICC shall develop and share with the Bar Standards Board (BSB) an annual self-evaluation report, covering a period to be agreed between the Parties. This should take the form of a narrative overview of performance against their roles and responsibilities as set out in the MOU. The templates annexed to this schedule should be used. The self-evaluation should have regard to the four principles of Bar Training: flexibility, accessibility, affordability and maintenance of high standards.
3. The reports should draw attention to particular challenges and analyse any changes and trends over the period in question, with reference to the implementation of action plans and recommendations¹ from previous evaluations, where relevant. The emphasis should be on analysis rather than description, with reference to supporting data where possible. The Inns and the ICC should also indicate how quality assurance processes have been used to identify and monitor issues of concern, as well as to identify good practice and quality enhancement.
4. The self-evaluation will also be informed by risk-based analysis as indicated below. Any actions which are proposed shall be SMART, meaning they are:
Specific – i.e. clear as opposed to vague statements or “ideal scenario” wish lists.
Measurable – it should be clear how it will be known when an action has been completed. Numbers, dates, times and outputs can be used to achieve such clarity.
Achievable – are sufficient resources available to undertake the action?
Realistic – is it feasible in all the circumstances to undertake the action?
Time bound – a clear deadline, by which each action must be completed, should be set.
Complaints analysis
5. Annual Self-evaluation Reports shall include the nature and number of formal complaints received relating to the administration of roles and responsibilities set out in the MOU. This should focus on themes, an analysis of trends, lessons learned and improvements made.

Risk management

¹ This may include internal recommendations from an Inn, COIC or the ICC, or recommendations from external auditors or the BSB.

6. Reports should identify current and future risks to achieving the four principles of Bar Training as relevant to the Inns and the ICC. Reports should also describe mitigating steps taken and planned.

Change management

7. Reports should identify changes made during the year and planned for following years, providing information on the context, the reason for the change, the impact and the timescales for implementation.

Fit and proper person checks

8. The BSB, Inns and ICC shall agree the personal data to be collected by the Inns and the ICC (as set out at Schedule 3 of the MOU). Aggregated data shall also be produced by the Inns and the ICC (as set out on pages 9 and 10 of this document). The BSB, Inns and ICC may assess the data in order to promote consistency in decision making and identify improvements.
9. Where appropriate, the BSB may review student records to satisfy itself that fit and proper person checks are being conducted correctly against the relevant Guidelines.

Qualifying Sessions

10. In accordance with paragraph 31 of the MOU, the Inns assure the BSB and themselves that, subject to exemptions and waivers, students will be required to attend the minimum number of Qualifying Sessions prior to Call.
11. Each Inn will provide to the BSB its Qualifying Sessions programme and accompanying Equality Impact Assessment (EIA) for review by the BSB.
12. Where appropriate, the BSB may seek further assurances by reviewing a number of anonymised student records to ensure that these individuals have completed the sessions required by the Qualifying Sessions Framework.
13. The BSB may review surveys completed by students². The BSB may also review any or all reports from the internal and external observers.
14. The BSB may review the outcomes of all quality assurance processes relating to Qualifying Sessions and may attend from time to time for monitoring purposes. At least 24 hours prior notice of attendance will be given.

Recommendations and outcomes

15. Following receipt of Annual Self-evaluation Reports, the BSB may request further assurance that activities comply with any identified requirements³ and support the achievement of the regulatory objectives and the principles underpinning Bar training.
16. Following the review of the Annual Self-evaluation Reports, the BSB may make recommendations to support the Inns and/or COIC (for the ICC) in attaining the objectives and principles set out in paragraphs 2 and 3 of this Schedule.

Annex 1 to Schedule 4 – Assurance Self-evaluation Templates

² This data will be anonymised.

³ As set out in the MOU, qualifying sessions framework, decision-making guidelines or any other policies or guidelines.

The following templates should be used to complete your Annual Self Evaluation Report. The templates will help structure your analysis and the BSB’s review. In this section, you will need to answer each of the questions below for student membership, the administration of the fit and proper person checks and qualifying sessions:

- Analyse how you have administered your responsibilities set out in the MOU in line with the four principles of Bar Training;
- Highlight any challenges and analyse any changes and trends;
- Analyse how you have used quality assurance processes to identify and monitor concerns, as well as identify good practice and quality enhancement;
- Identify any risks to the attainment of the four principles of Bar Training;
- Highlight and analyse any changes made since your last evaluation; and
- Highlight and analyse any changes you plan to make before your next evaluation.

Student membership

Analyse how you have administered your responsibilities set out in the MOU in line with the four principles of Bar Training

Highlight any challenges and analyse any changes and trends

Analyse how you have used quality assurance processes to identify and monitor concerns, as well as identify good practice and quality enhancement

Use the box below to consider any risks to the attainment of the four principles of Bar Training

Risk	Mitigating actions	Desired Outcome	Completion Date	Completed
				<input type="checkbox"/>

Use the box below to highlight and analyse any changes made since your last evaluation

Change adopted	Reasons for change	Impact of change

Use the box below to highlight and analyse any changes you plan to make before your next evaluation

Planned changes	Reasons for change	Desired outcome	Implementation Date	Completed
				<input type="checkbox"/>

The administration of the fit and proper person checks at admission

<p>Analyse how you have administered your responsibilities set out in the MOU in line with the four principles of Bar Training</p>

<p>Highlight any challenges and analyse any changes and trends</p>

<p>Analyse how you have used quality assurance processes to identify and monitor concerns, as well as identify good practice and quality enhancement</p>

--

Use the box below to consider any risks to the attainment of the four principles of Bar Training

Risk	Mitigating actions	Desired Outcome	Completion Date	Completed
				<input type="checkbox"/>

Use the box below to highlight and analyse any changes made since your last evaluation

Change adopted	Reasons for change	Impact of change

Use the box below to highlight and analyse any changes you plan to make before your next evaluation

Planned changes	Reasons for change	Desired outcome	Implementation Date	Completed
				<input type="checkbox"/>

The administration of the fit and proper person checks – Student conduct

Analyse how you have administered your responsibilities set out in the MOU in line with the four principles of Bar Training

Highlight any challenges and analyse any changes and trends

--

Analyse how you have used quality assurance processes to identify and monitor concerns, as well as identify good practice and quality enhancement

--

Use the box below to consider any risks to the attainment of the four principles of Bar Training

Risk	Mitigating actions	Desired Outcome	Completion Date	Completed
				<input type="checkbox"/>

Use the box below to highlight and analyse any changes made since your last evaluation

Change adopted	Reasons for change	Impact of change

Use the box below to highlight and analyse any changes you plan to make before your next evaluation

Planned changes	Reasons for change	Desired outcome	Implementation Date	Completed
				<input type="checkbox"/>

The administration of the fit and proper person checks at Call

Analyse how you have administered your responsibilities set out in the MOU in line with the four principles of Bar Training

--

Highlight any challenges and analyse any changes and trends

--

Analyse how you have used quality assurance processes to identify and monitor concerns, as well as identify good practice and quality enhancement

--

Use the box below to consider any risks to the attainment of the four principles of Bar Training

Risk	Mitigating actions	Desired Outcome	Completion Date	Completed
				<input type="checkbox"/>

Use the box below to highlight and analyse any changes made since your last evaluation

Change adopted	Reasons for change	Impact of change

Use the box below to highlight and analyse any changes you plan to make before your next evaluation

Planned changes	Reasons for change	Desired outcome	Implementation Date	Completed
				□

Data review

The BSB requires data on the number of matters which arose from the administration of the fit and proper person checks at admission to an Inn, whilst the individual was a student and at Call.

This will support the BSB to determine whether further information is required.

How many matters were dealt with via the Inn’s internal disciplinary procedure for the period?	
How many matters were referred to the ICC for the period of review?	
How many applicants were admitted / called following initial screening?	
How many matters were heard at the ICC (Hearing Panel) for the period of review?	
How many of these matters were appealed to the BSB’s Review Panel / Independent Decision-making Panel?	

Qualifying Sessions (Qs)

How many students participated and completed the Qualifying Sessions requirements in the period of review?

--

Analyse how you have administered your responsibilities set out in the MOU in line with the four principles of Bar Training, and in particular review both how you have ensured regional availability of Qs and the requirement to undertake a minimum number of Qs in each theme

--

Highlight any challenges and analyse any changes and trends

--

Analyse how you have used quality assurance processes to identify and monitor concerns, deal with waiver applications and identify good practice and quality enhancement

--

Use the box below to consider any risks to the attainment of the four principles of Bar Training

Risk	Mitigating actions	Desired Outcome	Completion Date	Completed

				<input type="checkbox"/>
--	--	--	--	--------------------------

Use the box below to highlight and analyse any changes made since your last evaluation

Change adopted	Reasons for change	Impact of change

Use the box below to highlight and analyse any changes you plan to make before your next evaluation

Planned changes	Reasons for change	Desired outcome	Implementation Date	Completed
				<input type="checkbox"/>

Data review

Please provide a copy of the below	Included
Qualifying Sessions programme for the period of review	<input type="checkbox"/>
EIAs undertaken for the Qualifying Sessions programme	<input type="checkbox"/>
All reports from internal and external observers	<input type="checkbox"/>

Complaints analysis

This section will capture information about the formal complaints received by the Inns and COIC (on behalf of the ICC) and is intended to support the effective administration of the roles and responsibilities set out in the MOU.

How many complaints were received in the review period relating to the administration of roles and responsibilities set out in the MOU?	
---	--

Of the complaints received, how many related to:

Student membership	
The administration of fit and proper person checks at admission	
Student conduct	
The administration of fit and proper person checks at Call	
Qualifying sessions	

Use the space below to analyse any trends from the complaints you received.

--

Use the space below to highlight any improvements you have made or plan to make following your analysis of the complaints.

--