



**LEGAL SERVICES
BOARD**

Legal Services Board
One Kemble Street
London
WC2B 4AN

T 020 7271 0050
F 020 7271 0051

www.legalservicesboard.org.uk

Freedom of Information request

Date request received: 05 May 2015

Date of response: 21 May 2015

LSB reference: 20150505-01

Request:

1. Please provide the details of all individual amendments to the 5th, 6th, 7th and 8th editions of the Bar Codes of Conduct.
2. Please provide the dates each amendment to the Bar Codes of Conduct were sanctioned by the Bar Council, and provide the votes cast, and relevant procedure adopted for each amendment to the provisions of the 5th, 6th, 7th and 8th editions of the Bar Codes of Conduct becoming effective.
3. Please provide the minutes of the Bar Council meetings in which each amendment to the 5th, 6th, 7th and 8th editions of the Bar Codes of Conduct were considered, voted on, and implemented.
4. Please provide all the methods by which the Bar Council communicated with its members regarding the requirement for them to provide Notice of a desire by them as (i) employed barristers, and, (ii) non practicing barristers to exercise rights of audience under the 6th, 7th and 8th editions of the Bar Codes of Conduct.
5. Please provide all the methods by which the Bar Council communicated with its (i) employed, and, (ii) non-practising members notifying them of the transitional arrangements which affected their rights of audience and ability to have years spent as employed barristers count towards their years standing under the 7th and 8th editions of the Bar Codes of Conduct.
6. Please provide the number of (i) employed, and, (ii) non-practising barristers who gave Notice to the Bar Council of their desire to exercise rights of audience as barristers in accordance with the 6th, 7th and 8th editions of the Bar Codes of Conduct in the following individual years:
1998-1999
1999-2000
2000-2001
2001-2002
2002-2003
2003-2004
2004-2005
2005-2006

2006-2007
2007-2008
2008-2009
2009-2010
2010-2011
2011-2012
2012-2013
2013-2014
2014-2015

7. Please provide the number of (i) employed, and, (ii) non practising barristers who were registered with the Bar Council in each of the individual years enumerated in para 6 above.
8. Please provide the number of (i) employed, and, (ii) non practising barristers who were granted full rights of audience before every Court by the Bar Council in accordance with 1104 of the transitional provisions of the 7th and 8th edition of the Bar Codes of Conduct for each individual year from 31st July 2000 to date.
9. Please provide the number of (i) employed, and, (ii) non practising barristers who had years spent as employed barristers count towards their years standing in accordance with 1104 of the transitional provisions of the 7th and 8th editions of the Bar Codes of Conduct for each individual year from the 31st July 2000 to date.
10. Please provide a list of each condition imposed on any (i) employed, and (ii) non practising barrister by the Bar Council following their provision of Notice to the Bar Council under 1104 of the 7th and 8th editions of the Bar Codes of Conduct from 31st July 2000 to date.
11. Please provide the number of (i) employed, and (ii) non practising barristers in each individual year from 31st July 2000 to date on whom conditions for exercise of full rights of audience were imposed under 1104 of the 7th and 8th editions of the Bar Codes of Conduct from 31st July 2000 to date.
12. Please provide the number of (i) employed, and, (ii) non practising barristers in each individual year from 31st July 2000 to date on whom no conditions pursuant to 1104 of the 7th and 8th editions of the Bar Codes of Conduct for exercise of full rights of audience in every court were imposed.
13. Please provide a full list of the facts /instances when the Bar Council decided not to impose any Conditions pursuant to 1104 of the 7th and 8th editions of the Bar Codes of Conduct on any (i) employed, and, (ii) non practising barrister in the individual years from 31st July 2000 to date.
14. Please provide the number of (i) employed, and (ii) non practising barristers who have been granted a Waiver from the three year standing rule in each individual year since 27 January 1990 to date.
15. Please provide details of the public consultation/s if any which took place prior to the introduction of the precursor to the 3 year rule in its original form as appears for the first time in the 5th edition of the Bar Code of Conduct which was effective from 27 January 1990.
16. Please provide details of the public consultation/s if any which took place prior to the introduction of the 3 year rule as it exists and is defined today when it became

effective and appeared for the first time in the 7th edition of the Bar Code of Conduct which was effective from 31st July 2000.

Response to request, received on 5 May 2015:

I write in response to your email of 5 May 2015 in which you requested information, under the Freedom of Information Act 2000, about amendments to the 5th, 6th, 7th and 8th editions of the Bar Codes of Conduct, and how this was communicated to barristers.

I can confirm that the LSB does not hold any of the information that you have requested in your questions 1 to 16.

As you may know, the LSB was set up under the auspices of the Legal Services Act 2007, to oversee the regulation of the legal profession in England and Wales. One of the ways in which it does this is to hold the approved regulators (who have direct responsibility for the day to day regulation of different types of lawyers) to account for their performance. However, the detailed questions that you have raised about changes made to the Bar Codes of Conduct and how this was communicated to individual barristers can only be answered by the Bar Council (the approved regulator for barristers), and its regulatory arm, the Bar Standards Board (BSB). The LSB does not become involved in such matters. Your requests should therefore be directed to the Bar Council or the BSB.

I hope that this addresses your information request, but if you are dissatisfied with our response to your request for information, you have the right to ask for an internal review or to submit a complaint (see LSB's Freedom of information – Complaints procedure:

http://www.legalservicesboard.org.uk/can_we_help/lbsb_policies_procedures/freedom_of_information/index.htm).

Internal review request, received 9 June 2015:

The LSB is under a Statutory Duty under Schedule 4 Part 3 of the Legal Services Act 2007 to have certain information provided to it by the Regulator in this case the BSB, when the Regulator seeks to alter any of its Regulatory Arrangements. Amendments to the Bar Code of Conduct are Alterations to the Regulator's Regulatory arrangements.

The LSB is under a Statutory Duty to consider all the information provided to it by the Regulator and is under a duty to consult other organisations prior to making any decision whether to approve the proposed alteration to the Regulator's Regulatory Arrangements.

I find it implausible that no information is held by the BSB at least in relation to the Requests made at 1 and 2 in relation to the amendments to the 8th Bar Code of Conduct for the date from which the LSB became officially responsible under the Legal Services Act 2007 for approving any alterations to the BSB's regulatory arrangements under the 8th Code until it was superseded on 6th January 2014 by the current Handbook.

The 8th Code of Conduct was actually effective from 31st October 2004 until 5th January 2014. Amendments to the Code would have been alterations that needed approval by the LSB. The LSB should hold information about the amendments to the 8th Code that it was under a Statutory Duty to approve.

In relation to 1 and 2 and the request for provision of Information in relation to the 8th Code for the period from which the LSB was under a Statutory Duty under the Legal Services Act 2007 to approve any alterations the BSB as Regulator for barristers made to its Regulatory arrangements under the 8th Code, I would like a Review of the statement/decision made on behalf of the BSB that :

“I can confirm that the LSB does not hold any of the information that you have requested in your questions 1 to 16.”

1. If the LSB claims the information in relation to 1 and 2, regarding the 8th Code from the date from which the LSB had to approve alterations to the BSB's Regulatory arrangements under the 8th Code until it was superseded on 6th January 2014 by the current Handbook, is not held under the FOIA by the LSB, please confirm whether the information was ever held by the LSB at any time prior to this Request for information under the FOIA.

2. If the LSB claims the information in relation to 1 and 2, regarding the 8th Code from the date from which the LSB had to approve alterations to the BSB's Regulatory arrangements under the 8th Code until it was superseded on 6th January 2014 by the current Handbook, is not held under the FOIA by the LSB, please confirm where the information is now held, and which individual and/or, entity and/or, Public Authority, and/or Statutory Body now holds the information.

3. Please confirm whether any third party has been consulted about this Request for Information.

4. Please note that I wish to be notified before you transfer my Request for Information to another Public Authority or any other individual or organisation.

I accept that in relation to most of the other matters requested the information should be held somewhere by the Bar Council and or BSB. Neither of which are subject to the FOIA. A FOIA Request for Information could therefore not be made to either the Bar Council or the BSB directly for provision of the information. Attempts have been made to seek provision of the information from both the Bar Council and the BSB.

Would it be possible for you to please give an indication of the timescale you propose to adhere to in Reviewing this Request for Information under the FOIA when acknowledging receipt of this Request for a Review.

Response to internal review request, received 9 June 2015:

I write in response to your emails of 9 June 2015, in which you have asked for an internal review of the LSB's responses to your requests for information under the freedom of Information Act 2000 (FoIA). The requests in question were sent on 5 and 18 May, and were responded to on 21 May and 2 June respectively. I will deal with each request in turn.

In summary, your information request of 5 May asked that the LSB provide details of all individual amendments to the 5th, 6th, 7th and 8th editions of the Bar Codes of Conduct, and it went on to ask that details be provided of the dates and methods by which these amendments were communicated, how they affected different types of barristers, and consultations that may have been carried out by the Bar Council. In response to the sixteen individual questions raised, the LSB responded that it did not hold the relevant information. You have asked for a review of this response in relation to questions 1 and 2.

Having considered the matter again, in the light of clarification provided in your review request, I am now able to provide you with details, summarised in the table below, of dates and descriptions of decisions that the LSB made in relation to the 8th Code of Conduct, in the period between 1 January 2010 when the LSB assumed its powers under the Legal Services Act, and 6 January 2014 when the Code of Conduct was replaced by the BSB Handbook. Details of these applications can be found on the [closed applications](#) page of the LSB website.

Application Date	Application
15.11.2013	Changes related to Fitness to Practice Regulations
27.09.2013	Approval of allocation of Practising Certificate Fee methodology
14.05.2013	Regulatory arrangements for Quality Assurance Scheme for Advocates
26.04.2012	Amendments to the Bar Training Regulations to require all students additionally to have achieved a required minimum score in the Bar Course Aptitude Test (BCAT), for the entry onto the Bar Professional Training Course (BPTC).
26.04.2012	Amendments to the Bar Code of Conduct – Equality and Diversity provisions
27.10.2011	Changes to the Code of Conduct in relation to the Cab Rank Rule
01.08.2011	Amendments the Bar Code of Conduct – Barrister Participation in Alternative Business Structures
22.07.2011	Amendments to the Bar Code of Conduct - Authorisation to Practise
23.03.2011	Amendments relating to Pupillage
15.01.2011	Amendments to the Bar Training Regulations – International English Language Test
23.07.2010	Amendments to the Bar Training Regulations
05.03.2010	Amendments to the Bar Code of Conduct – application of the Public Access Scheme
10.02.2010	Amendments to the Bar Code of Conduct– The Structure of Self Employed Practice
01.02.2010	Amendments to the Bar Code of Conduct – Legal Disciplinary Practices & Partnerships of Barristers

Please note, in addition, that fourteen [exemption directions](#) were issued to the 8th Code of Conduct. These are numbers 5, 6, 9, 13, 17, 18, 21, 22, 27, 33, 35, 36, 37 and 51, and they can be found by clicking on the above link to our website.

With regard to your question 2, our position remains that we do not hold the information you require, and that this request ought properly to be directed to the Bar Council.

Your request of 18 May relates to the LSB's Decision Notice of 18 August 2011 on the rule change application made by the Bar Council/Bar Standards Board. You raised five questions in response to which the LSB indicated that it did not hold the relevant information. You have asked that this response be reviewed in respect of your questions 1(a) and 2. I can confirm that we do not hold any information relating to the issue of the introduction of cut off dates for barristers.

This concludes my internal review of the LSB's response to your information requests dated 5 and 18 May 2015. If you remain dissatisfied with this response, you may

refer the matter to the Information Commissioner's Office. Information on how to do this may be obtained from their website at: <https://ico.org.uk/concerns/getting/>

Yours sincerely

Richard Moriarty
Chief Executive