

Annex 1 - List of rules in the code of conduct that contain the term recognised body and proposed amendments

Section 1 Arrangement of Sections

1) Part 1 – Preliminary

104((b)(i)

104. The general purpose of this Code is to provide the requirements for practice as a barrister and the rules and standards of conduct applicable to barristers which are appropriate in the interests of justice and in particular:

- (b) to make appropriate provision for:
 - (i) barrister managers, employees and owners of ~~Authorised~~Recognised Bodies; and

105 C.2

105C.2 ²In so applying, rule 606.1 is to be read as if it referred to a barrister or the ~~Authorised~~Recognised Body being retained rather than receiving instructions.

2) Part 2 - Practising Requirements

201(b)

201. For the purposes of this Code a barrister practises as a barrister if:

- (b) he acts as a manager of an ~~an Authorised~~Recognised Body and as such is required by the rules of that body's Approved Regulator to hold a practising certificate issued by the Bar Council;

202(d)(i)

202. Subject to the provisions of this Code a barrister may practise as a barrister provided that:

- (d) he has provided in writing to the Bar Council details of the current address(es) with telephone number(s) of the chambers or office from which he supplies legal services and:-

- (ii) if he is a manager or employee or owner of an ~~an Authorised~~Recognised Body the nature of his role and the name, address, email address, telephone number and name of the Recognised Body and of its Approved Regulator.¹

204(b)(ii)

204. ²A practising barrister may supply legal services to the public provided that:

(c) he is covered by insurance against claims for professional negligence arising out of the supply of his services in such amount and upon such terms as are currently required by the Bar Council or alternatively (in the case of:

(ii) a barrister practising as a manager or employee of an Authorised Recognised Body)

205(b)

205. A practising barrister may supply legal services to the public as:-

(b) a manager or employee of an Authorised Recognised Body, subject to the rules of the Approved Regulator of that body;

206.1 (a)(i)(2) 206.1 (ii) and 206.1(b)

206.1 A barrister called before 31 July 2000 who is deemed to be practising only by virtue of paragraph 201(a)(i) in England and Wales and who does not and is not required either by the Bar Standards Board or by any other Approved Regulator to hold a practising certificate under this Code shall not be subject to the rules in this Code applying only to practising barristers provided that:

(a) If he supplies any legal services to any person:-

(i) He provides in writing to the Bar Council details of the current address(es) with telephone number(s) of the office or premises from which he does so, and:-

(1) if he is employed, the name, address, telephone number and nature of the business of his employer;

(2) if he is an employee or owner or manager of an Authorised Recognised Body, the name, address, email address, telephone number and the name of the Authorised Recognised Body and its Approved Regulator

(ii) Unless he is employed only to offer services to his employer or to the Authorised Recognised Body of which he is an employee he (or, if he is supplying legal services to clients of his employer or an Authorised Recognised Body of which he is an

employee) that employer or body is currently insured by insurers authorised to conduct such business against any and all claims in respect of civil liability for professional negligence arising out of or in connection with the supply of legal services for at least the first £250,000 of each and every claim, with an excess not exceeding £500.

(b) Before supplying legal services to any person, employer or ~~Authorised~~Recognised-Body, and when first dealing with any third party in the course of supplying legal services, he informs them fully and comprehensibly in writing (a) of his status and the fact that he does not hold a practising certificate under this Code, (b) of the relevant limitations under this Code on the legal services he may undertake, (c) that he is not fully regulated by the Bar Standards Board, and (d) of the absence of available compensatory powers for any inadequate professional service he may render.

207 (ii)

207. A barrister may practise or be involved with the supply of legal services in more than one capacity only in the following circumstances:

(b) after:-

(ii) having agreed with each employer or ~~Authorised~~Recognised-Body with which the barrister is involved a protocol that enables the barrister to avoid or resolve any conflict of interests or duties arising from practice and/or involvement in those capacities.

208 (b) and (e)

208. A barrister who practises or is involved with the supply of legal services in more than one capacity pursuant to paragraph 207(b) above must:-

(b) maintain (and make available to the Bar Standards Board on request) a record of referrals by the barrister to the employer or ~~Authorised~~Recognised-Body and of instructions received by the barrister from the employer or ~~Authorised~~Recognised-Body.

(e) disclose (or procure the disclosure by the ~~Authorised~~Recognised-Body of) the interest to the client in writing before the barrister refers a client to the employer or ~~Authorised~~Recognised-Body or before accepting instructions from the employer or ~~Authorised~~Recognised-Body.

3) Part III – Fundamental Principles

303(a)

303. A barrister:

(a) must promote and protect fearlessly and by all proper and lawful means the lay client's best interests and do so without regard to his own interests or to any consequences to himself or to any other person (including any colleague, professional client or other intermediary or another barrister, the barrister's employer or any ~~Authorised Recognised~~ Body of which the barrister may be an owner or manager);¹

4) Part V – Employed Barristers

Section 1: Barristers employed other than by Recognised Bodies

503(c)

503. A barrister employed to supply legal services under a contract for services may be treated as an employed barrister for the purpose of this Code provided that the contract is:

(c) not a contract with an ~~Authorised Recognised~~ Body.

Section 2: Barristers employed by and/or managers of Authorised Recognised Bodies

Rules 506, 507 and 508

506. A barrister who is a manager of or employed by an ~~Authorised Recognised~~ Body shall have a right to conduct litigation in relation to every Court and to all proceedings before a Court and may exercise that right provided that the barrister complies with the Employed Barristers (Conduct of Litigation) Rules (reproduced in Annex I) and with the rules of the Approved Regulator of the ~~Authorised Recognised~~ Body.

507. A barrister who is employed by an ~~Authorised Recognised~~ Body but is not a manager of that body must not receive or handle client money securities or other assets other than by receiving payment of remuneration or where the money or other asset belongs to that body.

508. ¹A barrister employed by an ~~Authorised Recognised~~ Body to supply legal services under a contract for services may be treated as an employee of a ~~Authorised Recognised~~ Body for the purposes of this Code provided that the contract is in writing.

5) Part VIII - Miscellaneous

Rule 803.2

803.2 A barrister who is a pupil of an employed barrister or of a barrister who is a manager or employee of a Recognised Body, or who pursuant to Regulation 42 of the Bar Training Regulations¹ spends any period of external training with such a barrister or with a solicitor shall be treated for the purpose of the Code as if he were during that period employed by the barrister's employer or by the Recognised Body or by the solicitor's firm as the case may be.

6) Part IX - Compliance

905. A barrister must:

b. report promptly to the Bar Standards Board¹ if:

i. he is a manager of an Authorised Recognised Body which is the subject of an intervention by the Approved Regulator of that body;⁶

7) Part X definitions

"Director" means a director of a company, and includes the director of an Authorised Recognised Body which is a company, and in relation to a *societas Europaea* includes:^[6]

- (a) in a two-tier system, a member of the management organ and a member of the supervisory organ; and
- (b) in a one-tier system, a member of the administrative organ;

"Manager" means a barrister who is:

- (a) a partner in a partnership;
- (b) a member of an LLP; or
- (c) a director of a company which is an Authorised Recognised Body

"professional client" means a solicitor or other professional person by whom a self-employed barrister is instructed that is to say:

- (a) ~~Ansolicitor, solicitors' firm, LLP or company, Authorised Recognised~~ Body regulated by the Solicitors Regulation Authority or other approved regulator, authorised litigator, Parliamentary agent, patent agent, European Patent Attorney, trade mark agent, Notary or a European lawyer registered with the Law Society of England and Wales;

"self-employed barrister" means a practising barrister other than¹⁸:-

- (a) a barrister who is a manager or employee of a Authorised Recognised Body; and
- (b) an employed barrister acting in the course of his employment;

Annex N – Interim Suspension Rules

Referral to a Suspension Panel

1. Upon the Bar Standards Board receiving notification that a barrister (“the Defendant”) has been:
 - (a) convicted of or charged with a Indictable Offence, or
 - (b) convicted by an Approved Regulator for misconduct of any sort, for which conviction he has been sentenced to suspension or termination of his right to practise in an ~~Authorised-Recognised~~ Body, whether on an interim or final basis and whether or not such sentence is subject to conditions,