



# Family Career Breaks

Advice Pack 2019



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# 1. BSB Rules

## D1.2 Equality and diversity

[https://www.barstandardsboard.org.uk/media/1921179/bsb\\_equality\\_rules\\_extract\\_feb\\_2018\\_.docx](https://www.barstandardsboard.org.uk/media/1921179/bsb_equality_rules_extract_feb_2018_.docx)

rC110 You must take reasonable steps to ensure that in relation to your *chambers or BSB authorised body*:

- .1 there is in force a written statement of policy on equality and diversity; and
- .2 there is in force a written plan implementing that policy;
- .3 the following requirements are complied with:

### Parental leave

.k *chambers* has a *parental leave* policy which, in the case of a *chambers*, must cover as a minimum:

- .i the right of a member of chambers to take parental leave;
- .ii the right of a member of chambers to return to chambers after a specified period, or number of separate periods, of parental leave, provided the total leave taken does not exceed a specified maximum duration (which must be at least one year);
- .iii a provision that enables parental leave to be taken flexibly and allows the member of chambers to maintain their practice while on parental leave, including the ability to carry out fee earning work while on parental leave without giving up other parental leave rights;
- .iv the extent to which a member of chambers is or is not required to contribute to chambers' rent and expenses during parental leave;
- .v the method of calculation of any waiver, reduction or reimbursement of chambers' rent and expenses during parental leave;
- .vi where any element of rent is paid on a flat rate basis, the chambers' policy must as a minimum provide that chambers will offer members taking a period of parental leave a minimum of 6 months free of chambers' rent;
- .vii the procedure for dealing with grievances under the policy;

.viii chambers' commitment to regularly review the effectiveness of the policy;

#### Flexible working

.1 chambers or BSB authorised body has a flexible working policy which covers the right of a member of chambers, manager or employee (as the case may be) to take a career break, to work part-time, to work flexible hours, or to work from home, so as to enable him to manage their family responsibilities or disability without giving up work;

[https://www.barstandardsboard.org.uk/media/1977492/bsb\\_equality\\_rules\\_handbook\\_2019\\_update.pdf](https://www.barstandardsboard.org.uk/media/1977492/bsb_equality_rules_handbook_2019_update.pdf)

(See: Section 10, Page 34)

#### **Key to note – rules allow:**

1. Up to 12 months leave – some chambers may allow a longer period
2. Flat rent holiday only (most chambers have more complex rent arrangements)
3. Encouragement to 'keep your hand in' and do some work whilst on leave/prior to immediate return (flexible working)

## 2. Checklists

### Closing Down a Practice: Your Checklist

- Check your chambers' career break/parental leave/flexible working policies (and/or BSB Handbook)
- Cancel your Professional Indemnity Insurance (BMIF) – **only if you are suspending your practising certificate at the same time**
- Check CPD requirements (you may be entitled to an exemption – but only if you are suspending your practising certificate at the same time)
- Practising Certificate Fees (**you may be entitled to a partial refund if you are suspending your practising certificate fee**)
- Bank/Bank Manager (let them know what is happening)
- Chambers Rent – Put direct debits on hold
- Hold a practice meeting**
- Put a return/update meeting in your diary
- Accounts – make sure they are up to date & provision for tax/year end/pension provision
- Allow for VAT (it is probably best not to de-register if you intend to return before all your aged debt and outstanding work has been billed and paid)
- Apply for maternity benefit – if eligible (the timing is important)
- Legal online library subscription (decide whether to maintain or suspend)
- Amend email addresses/out of office messages/voice mail message
- Nominate a chambers buddy – someone to check your pigeon hole and liaise with cl members of chambers in your absence
- Decide what you want to be told about (e.g. chambers meetings, chambers parties/seminars/solicitor events/changes to management committee/staff/recruitment to chambers)
- Make sure your home internet access is OK
- Agree the list of solicitors to be told about your going/events during your break (e.g. the birth of your child)/plans for coming back
- Agree the contact details (for your support network, buddy, to given to clerks etc.)

## Starting Up Again: Your Checklist

- Check your Chambers career break/parental leave /flexible working policies (and/or BSB Handbook)
- Renew your Professional Indemnity Insurance (BMIF) and allow sufficient time to do so
- Check CPD (you may be entitled to an exemption)
- Apply for your Practising Certificate Fee if you cancelled it (you may be entitled to a reduction) and allow sufficient time to do so
- Inform your Bank/Bank Manager
- Check your SBA/Circuit/Bar Mess (see what courses they run for returning barristers)
- Chambers Rent – Direct debits (put back in place)
- Hold a practice meeting in advance of your return with your clerk
- Accounts – up to date & provision for tax/ year end/pension provision
- Re-register for VAT (if appropriate – see previous checklist)
- Renew your legal online library subscription
- Amend your email addresses/out of office messages/voice mail message
- Set up your home for home working (e.g. internet access, printing etc.)
- Inform solicitors about your plans for coming back

### 3. Useful Information

#### Practising Certificate

Steps have been taken recently to reduce the cost of a practising certificate for those on parental leave and for those returning from parental leave. This is intended to encourage barristers to retain their practising certificate so that they are able to work if they wish during parental leave, and to make it easier to return to work.

##### **Parental Leave**

If you choose to suspend your practice to take parental (maternity or paternity) leave at any time in the year, you will be eligible for a pro rata refund of PCF, subject to notification within 28 days. No refund is available for the BRF or the Pro Bono donation.

##### **Returning to practise**

If you return to practise after 1 April 2019, you will be charged a pro rata proportion of the PCF for the year based on your income in the reference year.

If you are returning after a period of parental leave (maternity or paternity leave) then you will be required to select the lowest fee level, Income Band 1.

Individuals who have ceased to practise and/or are retired and who wish to return to practice briefly (e.g. for a day case or similar), must pay pro rata the appropriate PCF Fee for the entire month or months into which the practising dates fall.

If you wish to keep your practising certificate during parental leave you should renew your certificate by declaring Band 1, on the *MyBar* portal.

**Queries on this should be referred to Bar Council's Records Dept email: [records@barcouncil.org.uk](mailto:records@barcouncil.org.uk)**

Guidance on options is here:

[https://www.barstandardsboard.org.uk/media/1979131/60\\_20-](https://www.barstandardsboard.org.uk/media/1979131/60_20-)

[20authorisation 20to 20practise 202019-20 20- 20policy 20and 20guidance.docx -](#)

see page 8

**Q: Should I maintain my Practising Certificate?**



### Pros

- You will be available to work immediately if you wish to
- It saves the effort of suspending/reapplying

### Cons

- Cost
- CPD requirements

### **Q: What is the process for renewing your practising certificate?**

Simply contact the Bar Council's Records Department T: 0207 242 0934 or email [records@barcouncil.org.uk](mailto:records@barcouncil.org.uk)

### **Q: How long does that process take?**

If you meet the criteria, you can get your certificate almost immediately, but allow a couple of days to be on the safe side (during the Authorisation to Practice period in February/March it can take longer as the Records office is very busy)

### **Q: Is there a period of time after which there are additional hurdles or requirements associated with regaining a practicing certificate?**

As of 1 April 2015, there may be additional hurdles if you haven't practiced for 5 years (see rS45 in the BSB Handbook below)

**rS45** You are eligible for a practising certificate if:

*.1 you are a barrister or registered European lawyer and you are not currently suspended from practice and have not been disbarred; and*

*.2 you meet the requirements of Rules S46.1, S46.2, S46.3 or S46.4; and*

*.3 [either:*

*.a within the last 5 years either (i) you have held a practising certificate; or (ii) you have satisfactorily completed (or have been exempted from the requirement to complete) either the non-practising period of 6 months of pupillage or 12 months of pupillage; or*

*.b if not, you have complied with such training requirements as may be imposed by the Bar Standards Board.]1*

**rS46** You are eligible for:

*.1 a full practising certificate if either:*

*.a you have satisfactorily completed 12 months pupillage; or*

*.b you have been exempted from the requirement to complete 12 months of pupillage; or*

*.c on 30 July 2000, you were entitled to exercise full rights of audience by reason of being a barrister; or*

*.d you were called to the Bar before 1 January 2002 and:*



*.i you notified the Bar Council that you wished to exercise a right of audience before every court and in relation to all proceedings; and*  
*.ii you have complied with such training requirements as the Bar Council or the Bar Standards Board may require or you have been informed by the Bar Council or the Bar Standards Board that you do not need to comply with any such further requirements; in each case, before 31 March 2012*

**This provision has not yet been implemented. At the moment there are no additional training requirements (reference above rS45.3.b) however we understand that the BSB intend to bring in some standard requirements soon and that returning barristers will then need to check with the BSB's Qualifications team for waivers in individual cases.**

**Q: In the absence of a Practising Certificate, in what capacity can a barrister remain linked with/a member of chambers?**

You can be a non-practising member of chambers or a door tenant, but it must be clear that you are not currently accepting instructions.

**Q: What are the pros and cons of keeping your certificate and insurance, and complying with CPD and not practising?**

In keeping your practising certificate you are required to comply with CPD and hold insurance with BMIF which will have a cost implication. Additionally, even if you do not practice you are subject to the whole of the BSB Handbook which includes the Cab Rank Rule.

Therefore, if you are approached to take instructions you may be obliged under the Cab Rank Rule to accept the instruction unless rC30.2 applies:

*The cab rank Rule C29 does not apply if: accepting the instructions would require you or the named authorised individual to do something other than in the course of their ordinary working time or to cancel a commitment already in their diary;*

Therefore, it would be advisable to block out in your diary that is accessible by Chambers, the time that you are not accepting instructions. It is permitted within the Handbook to block out time when you are not available and therefore the cab rank rule would not apply to instructions asking you to do work during those days.

## **BMIF/Insurance**

Barristers may be entitled to pay a lower rate if away from work for a period or back at work but working reduced hours.

Barristers should check on the up to date position with the BMIF and keep them informed. Tel. 020 7621 0405.

## **CPD**

Under the new CPD regime barristers have more flexibility.

That said, some parents on breaks find attending CPD courses during their break useful for keeping their hand in and increasing confidence. Attending chambers seminars or SBA events also provide opportunities to network and find out what is going on.

How any individual barrister deals with CPD is a personal decision. If some CPD options require attendance at seminars that might not be compatible with breastfeeding barristers should explore many online options. Barristers may wish to consider undertaking all CPD online and towards the end of any leave period.

Specialist Bar Associations may have useful catch up courses/information – barristers should be encouraged to keep in touch with them.

## **Chambers Rent – Direct debits**

Barristers should check relevant chambers policy re sabbaticals/parenting breaks etc. and agree how they will be implemented in advance to avoid misunderstandings.

## **A Practice meeting before a barrister goes**

Barristers should be encouraged to have a practice meeting before taking leave. Even if the barrister is unclear over when they are coming back or how well they will cope when they do, it is important to discuss options and practice in general with the Head of Chambers/Clerks/Practice Manager as appropriate. Bar Council would recommend minuting the discussion to avoid misunderstandings later.

Try and agree whether if paperwork should be offered during the leave period. Establish options to/any desire to contribute to chambers' newsletters or seminars during the barrister's absence.

Barristers should be encouraged to say what they want and know what chambers are expecting of them – it is important to get clarity on this as it is all too easy for a barrister to feel pestered or ignored if expectations between the barrister and chambers do not match up. It is good to talk.

Barristers should be encouraged to ask themselves:

1. how realistic are your expectations for your return to work?
2. Is your practice manageable on a part-time basis if you want to work this way?
3. Can your practice be organised as, say, 3 or 4 days per week, or would it be better to take longer gaps between cases, especially during school holidays (i.e. traditional law vacations)?
4. What sort of adjustments should you be thinking about in relation to your practice?

## **Return/update meetings**

Barristers should be encouraged to be proactive in setting up a return/update meeting in their diaries. Clerks may otherwise naturally leave this to be fixed “when you are ready” and then it doesn't happen. “I am waiting until they are ready” is too easily interpreted by a barrister on leave as “they are no longer interested in me”. Putting a date in the diary avoids such a misunderstanding. It may need to be changed, but do not take a date out without ensuring that another date is planned.

## **Accounts**

Barristers should check/be encouraged to check:

- accounts are up to date;
- provision has been made for tax;
- if year-end needs adjusting;
- that pension provision has been made; and
- their accountant knows what is happening and how to get in touch

## **VAT**

Barristers need to decide if they

- will remain registered; and
- if so, how to do returns.

## **Maternity Benefit**

This is one of the few benefits that the money barristers pay for NI as a self-employed person actually entitles them to, so a barrister should claim it.

Information on benefits, both statutory maternity pay and maternity allowance, is available at <https://www.gov.uk/maternity-allowance>

Bear in mind there are up to 10 “keeping in touch” work days allowed before a barrister returns to work (where a barrister can earn fees without compromising any benefits). Information about this is available at <http://www.workingfamilies.org.uk/>

## **Legal online library subscription services**

A barrister should consider services they want to have during a break. It may be tempting to cancel everything, but it may be useful to keep up to date to make a return easier.

## **Email Addresses/Out of Office Messages/ Voice Mail Message**

Barristers should consider what message they want solicitors and fellow members of the Bar to get when they try and make contact. If there is no message (and the barristers doesn't respond to contact) they may get frustrated and fed up. If the barrister is more open, they may join in the excitement of a break and look forward to the barrister's return.

## **Nomination of a Chambers Buddy – Contact Routine**

It is easy to become isolated on a career break. It can be useful to nominate a chamber buddy to keep a barrister informed about what is going on during any absence. A temptation will be not to bother a member on leave or assume someone else will be in touch. Those on leave can miss important things, coming back to discover the Head of Chambers and senior Clerk have changed and the set has moved to a new address; it is better to keep informed. One person in chambers should be asked to keep the

barrister informed and to check pigeon holes and the diary from time to time to make sure all is well and notify the member on leave of (or sort out) any problems.

A barrister should also decide how much they want to be told about Chambers meetings, chambers parties, seminars, solicitor events and changes to management committee and staff. They should then tell those responsible e.g. senior or junior members of the clerking team. Barristers and clerks should not be in a position where they are guessing what the member on leave wants. Any everyone who takes a break may want different levels of interaction or information.

### **Home Internet Access**

Barristers should be encouraged to maintain remote access to chambers intranets/diary etc. Barristers should ensure contact numbers are on the chambers system so that calls can be patched through if they wish. Members should also be encouraged to leave a list of solicitors who they don't mind being patched through, and those that they do not wish to hear from whilst on leave.

### **Informing Solicitors**

Barristers should be encouraged to leave a list of solicitors to be told about the member's going/events during any break (e.g. birth of child etc.) and their return. Barristers should keep a copy of this list with telephone numbers, addresses and email addresses.

Some solicitors will know more about what a member is up to than others, and a barrister may wish some to be kept informed of developments but not others. The clerk should be given this information it is unfair to expect the clerks to guess which ones should be informed and which not.

### **Contact Details for Support Network on Mobile/Given to Clerks**

Everyone should recognise that after having children a barrister's life will have changed. Clerks should be advised of child care arrangements and commitments, so they can work round them. Barristers should also be encouraged to build a network of other supporting parents and/or family who can stand in and do the pickup from school if there is a problem. Barristers may wish to consider whether they want the clerks to have these numbers in case of emergency.

## Useful Numbers and Websites for Returners

The Bar Council Records office should be contacted about practising certificate inquiries including fees and the Bar Standards Board about CPD requirements.

The Bar Council **Records Office** (T: 0207 242 0934 or [records@barcouncil.org.uk](mailto:records@barcouncil.org.uk)).

Bar Mutual Insurance Fund (**BMIF**) T: 020 7621 0405 or [www.barmutual.co.uk](http://www.barmutual.co.uk)

**Bar Standards Board** T: 0207 831 9217 or [www.barstandardsboard.org.uk](http://www.barstandardsboard.org.uk)

VAT Online Helpdesk on T: 0845 010 86500 or, to register for VAT online at [www.online.hmrc.gov.uk](http://www.online.hmrc.gov.uk).

**Information Commissioner** – You will need to ensure you are registered with the Information Commissioners’ Office by the time you return to practice. Contact by phoning 0303 123 1113 and ask for a registration form. The Information Commissioner will send you a copy of your last completed form which will assist in completing the form. At the time of writing the fee for registration is £35.

The Bar Council **Parental Support Hub:**

[www.barcouncil.org.uk/for-the-bar/introduction-to-member-services/parental-support-hub/](http://www.barcouncil.org.uk/for-the-bar/introduction-to-member-services/parental-support-hub/)

The Bar Standards Board’s Handbook **Equality and Diversity Rules:**

<https://www.barstandardsboard.org.uk/about-bar-standards-board/equality-and-diversity/equality-and-diversity-rules-of-the-bsb-handbook/>

**Judicial Appointments Commission** ([www.jac.judiciary.gov.uk/](http://www.jac.judiciary.gov.uk/))

## 4. Advice from clerks and barristers

### Advice from Clerks to Barristers

#### Before your career break

1. Talk to your clerks/practice manager – agree what your solicitors will be told
2. Agree how you want to maintain contact whilst you are away – emails and/or phone calls – how often?
3. Give serious consideration to maintaining your practising certificate and CPD whilst away – it keeps everything fresh and means you keep up to date with all the legislative & other changes whilst you are away
4. Consider how adaptable your current practice is? Do you need to look at diversifying or concentrating on areas more conducive to family life? Warned list cases in the Crown Court can rarely be manipulated to meet school runs, prize giving and sports day!
5. Give serious consideration to child care issues before you leave – nursery places can often be full for 12 months or more and child minders/nannies may not be available when you want them unless you investigate first

#### After your career break

1. Contact your clerks/practice manager well in advance of your return, to fix up a date for discussing how and when you plan to return and whether you want to “phase in” your return over a period of days/weeks.
2. Make sure you use all your contacts to let everyone know you are back and ready to accept instructions. Try and make arrangements to meet people that suit your family commitments – see if people will meet for a quick morning coffee or lunch if you prefer to avoid evening meetings now you have family commitments
3. Offer people alternatives that suit your new regime. Rather than just saying you can't/won't do evening conferences, offer to do a telephone conference once the children are in bed – or offer to meet the client during the day instead. Skype and FaceTime are also viable alternatives.
4. Don't expect life to be the same!



## Advice from Barristers to Barristers

### Before/during a career break

1. Budget and save money - plan your finances. Speak to your accountant very early on (financial planning can affect the quality of your break)
2. Plan your work as much as possible
3. Communicate with your clerk, chambers and professional clients
4. Talk to your partner/family and start to think about childcare
5. Consider how you want to communicate with your clerk during your career break. Establish contact rules. Consider having a separate career break email address
6. Be as flexible as you can
7. Accept you can't do everything all the time; manage your own and others' expectations
8. Determine to keep yourself up to date on developments and education
9. Forge and maintain relationships inside and outside of chambers
10. Keep options open by keeping in touch (and not burning bridges)

### After a career break

1. Be positive
2. Communicate. Communicate. Communicate!
3. Be proactive about your diary and practice management. Set yourself and your clerks achievable objectives
4. Have daily/regular communication/updates on workloads
5. Invest in your personal relationship with your clerk
6. Be prepared to work unusual hours
7. Don't be afraid to say 'no' to work you can't do. Be bold and clear about defining your work parameters with clients and colleagues. Set boundaries and be clear on how much work you are willing to take on
8. Try to take cases that fit with family life when you return
9. Have a contingency plan
10. Remember to take time for yourself

## 5. Resources

### Bar Council's Parental Leave Policy

<https://www.barcouncilethics.co.uk/wp-content/uploads/2018/02/Bar-Council-Parental-Leave-Guide-28revised-including-Shared-Parental-Leave29-February-2018.pdf>

### Equality and Diversity at the Bar Council

The Bar Council aims to widen access to the Bar, create a diverse and inclusive profession and to promote good practice in the management of chambers and the delivery of legal services.

Bar Council's Equality, Diversity and Social Mobility Committee is responsible for developing and taking forward the Bar Council's equality and diversity policy. The Head of Equality & Diversity supports the work of the Committee, provides equality and diversity advice and guidance to members of the profession, those seeking to enter the profession and staff of chambers. The Bar Council also offers a programme of diversity events and training.

**The Bar Standards Board** has its own Equality and Diversity Officers responsible for ensuring the BSB's functions have given due regard to promoting equality and diversity and championing equality and diversity issues.

### Equality and Diversity Helpline (T: 0207 611 1426)

Please contact the Head of Equality and Diversity at the Bar Council, Sam Mercer, for the following:

- confidential advice to members of the profession, staff and members of chambers, employed barristers, pupils and Bar students about equality and diversity, disability, maternity leave or harassment queries or concerns;
- implementing the BSBs Equality rules, including the maternity and parental leave guidelines in chambers;
- making reasonable adjustments and making chambers and services accessible to people with disabilities;
- Diversity monitoring.

## Equality and Diversity Information on the Bar Council's Website

Guides can be found at <http://www.barcouncil.org.uk/practice-ethics/professional-practice-and-ethics/equality-and-diversity-guidance/>

### Maternity Mentoring Programme

Maternity Mentoring is a new mentoring initiative by the Bar Council's Bar Mentoring Service. The Bar Council recognises that challenges barristers face when returning to practice after having had a family. The Maternity Mentoring Scheme is an opportunity for barristers to have access to advice, guidance and information from a more experienced parent who has been through the whole process, and has returned to a flourishing practice.

Although the name connotes otherwise, Maternity Mentoring is will be available to all parents/carers at the Bar, irrespective of gender, and we would welcome all applications.

For more information see: <http://www.barcouncil.org.uk/supporting-the-bar/bar-mentoring-service/maternity-mentoring-scheme/>

### Bar Council Training

The Bar Council offers arrange of E&D related training both at Bar Council and bespoke packages for chambers for more information contact our Training and Events team at [trainingandevents@BarCouncil.org.uk](mailto:trainingandevents@BarCouncil.org.uk)

## Bar Council and Bar Standards Board Contacts:

<b>Bar Council</b>	Head of Policy: Equality & Diversity and CSR	Sam Mercer T: 0207 611 1320 E: <a href="mailto:SMercer@barcouncil.org.uk">SMercer@barcouncil.org.uk</a>
	Training & Events	E: <a href="mailto:Trainingandevents@barcouncil.org.uk">Trainingandevents@barcouncil.org.uk</a>
<b>BSB</b>	Head of Equality and Access to Justice	Amit Popat T: 0207 611 1378 E: <a href="mailto:APopat@BarStandardsBoard.org.uk">APopat@BarStandardsBoard.org.uk</a>