



The Bar Council

## **Barristers' Duties in relation to Foreign Work including European Cross-Border Work**

<b>Purpose:</b>	To draw barristers' attention to their obligations when appearing or providing legal services outside England or Wales.
<b>Scope of application:</b>	All practising barristers
<b>Issued by:</b>	The Ethics Committee
<b>Originally issued:</b>	2012
<b>Last reviewed:</b>	May 2022
<b>Status and effect:</b>	<b>Please see the notice at end of this document. This is not "guidance" for the purposes of the BSB Handbook I6.4.</b>

### **General approach**

1. The BSB Handbook applies to your conduct in court and before tribunals (including arbitrators) wherever those courts and tribunals may be sitting, and whatever law they may be applying.
2. The BSB Handbook rC2 states that if you are practising or otherwise providing legal services (as defined in the BSB Handbook), then Sections 2.B, 2.C and 2.D of the BSB Handbook will apply. This is so whether you are practising or providing legal services in England and Wales or elsewhere.
3. The BSB Handbook rC2 also makes clear that CD5 and CD9 apply at all times, as do rC8, rC16 and rC64 to rC70 and the associated guidance. They will thus apply wherever you may be.
4. In addition, rC13 requires you, in connection with any "*foreign work*", to comply with any applicable rule of conduct prescribed by the law or by any national or local Bar of (a) the place where the work is or is to be performed, and (b) the place where any proceedings or matters to which the work relates are taking place or contemplated, unless such rule is inconsistent with any requirement of the Core Duties.

5. The BSB Handbook defines "*foreign work*" as legal services of whatsoever nature relating to (a) court or other legal proceedings taking place or contemplated to take place outside England and Wales; or (b) if no court or other legal proceedings are taking place or contemplated, any matter or contemplated matter not subject to the law of England and Wales.

6. Guidance gC35 explains that it is your responsibility to inform yourself as to any applicable rules of conduct. This is likely in practice to require you to contact the relevant national or local Bar(s). You may also wish to take note of the International Bar Association's [International Principles on Conduct for the Legal Profession](#).

7. Rule C14 also stipulates that if you solicit work in any jurisdiction outside England and Wales, then you must not do so in a manner which would be prohibited if you were a member of the local Bar.

8. Section D5 of the BSB Handbook also lays down further rules applicable when you are undertaking cross-border activities (as defined in the Handbook). These include undertaking '*foreign work*' within a CCBE State other than the UK (whether or not you are present in that state) and engaging in professional contact with lawyers in other CCBE States. These rules are derived from the Code of Conduct for European Lawyers, adopted by the Council of Bars and Law Societies of Europe ("CCBE"). CCBE States are those states whose legal profession is a full, associate or observer member of the CCBE. The Guidance at gC35 makes clear that the rules in section D5 are in addition to your obligations under rC13 and rC14: i.e. in addition to any obligation that you might otherwise have to comply with rules of conduct relevant to the particular CCBE State.

9. The Bar Council has published guidance on the implications of the new EU-UK relationship after Brexit for practice rights, which can be found [here](#).

### **Important Notice**

This document has been prepared by the Bar Council to assist barristers on matters of professional conduct and ethics. **It is not 'guidance' for the purposes of the BSB Handbook I6.4, and neither the BSB nor a disciplinary tribunal nor the Legal Ombudsman is bound by any views or advice expressed in it.** It does not comprise – and cannot be relied on as giving – legal advice. It has been prepared in good faith, but neither the Bar Council nor any of the individuals responsible for or involved in its preparation accept any responsibility or liability for anything done in reliance on it. For fuller information as to the status and effect of this document, please see [here](#).