



The Bar Council

Becoming a Sole Practitioner

Purpose:	To guide barristers setting up as a sole practitioner
Scope of application:	Self-employed practising barristers
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Status and effect:	Please see the notice at end of this document. This is not “guidance” for the purposes of the BSB Handbook I6.4.

Sole practitioners

1. The Bar Standards Board Handbook provides that you may practise on your own provided that you have practised for a total of three years with a qualified person following the completion of your pupillage (BSB Handbook rS20).
2. Please note that:
 - a "qualified person" is defined at rS22
 - periods of "squatting" or "third-six pupillages" count towards the three years
 - periods spent in employment as an employed barrister with full rights of audience after 31st July 2000 also count towards the three years
 - the period of three years need not be continuous: breaks may have been taken provided that the total time spent in practice amounts to three yearsif you are practising in a dual capacity you must work with a qualified person in both capacities. You may not therefore set up as a sole practitioner to practise as a self-employed barrister even if you are working with a qualified person in your employed capacity.

3. In certain limited circumstances, the Bar Standards Board may waive the requirement to have practised for three years post-pupillage. Please contact the Qualifications Department of the Bar Standards Board (020 7611 1444) for more information.

4. Assuming you meet the basic qualification, you do not need special permission from the Bar Standards Board in order to establish your own chambers. You should, however:

- update your records through MyBar or inform the Records department (020 7242 0934) immediately of the address from which you will practise and the telephone number.
- inform the Bar Mutual Indemnity Fund (0207 621 0405) of your new status.

5. Finally, you should note the requirements in the BSB Handbook to administer your practice efficiently and to have an effective complaints procedure. (see rC87-98).

6. You may wish to notify the Circuit on which you are practising and your Inn of Court.

Things to consider

7. Before deciding to practise alone, you should think carefully, not merely about how to comply with the Handbook but also about how you will deal practically with the different regime involved.

8. The advantages of sole practice can include:

- reduction in the costs of running a practice
- control of your administration and marketing
- a freer lifestyle in running your practice
- saving time and money by travelling less.

9. Disadvantages can include:

- increased administrative burdens which are ongoing and not just limited to the initial setting up
- lack of support to expand your practice and isolation from others, limiting exchange of views
- difficulties with work that has to be returned
- receiving fewer returns.

10. You should weigh these issues up and should think about:

- whether solicitors will continue to brief you if you are on your own
- how you will inform/market yourself to solicitors
- how you will deal with returned work
- what administrative support you need in place
- whether as a self-employed barrister you will undertake public access work and/or apply for an extension to your practising certificate to conduct litigation.
- if you will be operating from home and therefore giving your home address as the address of your chambers, how comfortable you are about publishing this.

Questions and answers for sole practitioners

Do I need to have a clerk?

11. No. The requirement is simply that you administer your practice efficiently (rC89.) You need to assess whether you will be able to undertake the necessary administration yourself or whether you need somebody else to assist. If your practice is largely paper-based, then you may be able to manage without any assistance.

12. If you do employ a clerk, or any other administrative staff, then as per rC89.6, you must take care that they:

- .a are competent to carry out their duties;
- .b carry out their duties in a correct and efficient manner;
- .c are made clearly aware of such provisions of [the Bar Standards Board] Handbook as may affect or be relevant to the performance of their duties;
- .d do nothing which causes or substantially contributes to a breach of the Handbook by any BSB authorised individual or authorised (non-BSB) individual within Chambers,

And all complaints against them are dealt with in accordance with the complaints rules. In addition, rC89.3 requires you not to employ anyone who is subject to disqualification by another approved regulator.

13. You should therefore ensure that your clerk has adequate training. In the case of *Legal Services Commission v Henthorn*¹, the judge criticised the sole practitioner barrister for failing to give her clerk adequate training that led to him billing for legal aid fees at the incorrect rate in error.

Where can I hold conferences?

14. Conferences can be held wherever is convenient. There is nothing to stop them taking place in solicitors' offices, or your own office.

How can I market myself to solicitors?

15. In any way which is consistent with the advertising and transparency rules - you can contact solicitors directly, provide details of your skills, experience and fees. You should be careful about direct comparisons with other professionals in accordance with gC57.

Can I outsource work?

16. Yes; this is permissible as an alternative to employing staff. Please refer to the Bar Council guidance note for more information that you can access [here](#).

17. The BSB Handbook at rC86 states that “you must ensure that such outsourcing is subject to contractual arrangements which ensure that such third party:

.a is subject to confidentiality obligations similar to the confidentiality obligations placed on you in accordance with this Handbook

.b complies with any other obligations set out in this Code of Conduct which may be relevant to or affected by such outsourcing

.c processes any personal data in accordance with your instructions and, for the avoidance of doubt, as though it were a data controller under the Data Protection Act, and

.d is required to allow the Bar Standards Board or its agent to obtain information from, inspect the records (including electronic records) of, or enter the premises of such third party in relation to the outsourced activities or functions.”

How do the Transparency Rules apply to me?

¹ Paragraph 70 *Legal Services Commission v Henthorn* [2011] EWCA Civ 1415 (30 November 2011)

18. Section D6 of the BSB Handbook sets out the transparency rules as applicable to self employed barristers and those that also apply to self-employed barristers undertaking public access work in defined areas of law. You should refer to these as well as to the BSB's associated guidance, available on their website [here](#).

What do I do if someone makes a complaint against me?

19. You must comply with the Complaints Rules at rC99-109. There is a model complaints policy that you can use at Appendix 2 of the Bar Standards Board guidance on first tier complaints handling that you can use that you can access [here](#)

What Equality and Diversity obligations do I have?

20. The BSB Handbook at rC110-112 set out extensive equality and diversity obligations for Chambers and self-employed barristers.

What Data Protection obligations do I have?

21. All barristers are data controllers under the Data Protection Act 1998 (and, from 25 May 2018, the General Data Protection Regulation), whether practising in chambers or on their own. However, as a sole practitioner you will not be able to rely on any chambers-wide systems or processes for compliance and will need to have your own in place. See the Bar Council's [guidance](#) on the GDPR for barristers and chambers.

Do I need to let the BSB have access to my premises?

22. Yes. The BSB Handbook at rC70 states that:

"You must permit the Bar Council, or the Bar Standards Board, or any person appointed by them, reasonable access, on request, to inspect:

- .1 any premises from which you provide, or are believed to provide, legal services, and
- .2 any documents or records relating to those premises and your practice, or BSB authorised body.

and the Bar Council, Bar Standards Board, or any person appointed by them, shall be entitled to take copies of such documents or records as may be required by them for the purposes of their functions."

What is meant by "chambers is administered competently and efficiently"?

23. Essentially, you need to have the office systems which will ensure that, amongst other things:
- briefs and instructions are logged in on arrival
 - you have adequate facilities to ensure that work is completed in good time and do not take on more work than you can manage
 - you have suitable diary facilities to identify clashes of dates of hearings, conferences and other appointments at the earliest possible stage and to remind you of those appointments
 - you keep adequate records of your work
 - fee notes are sent out in good time and adequate records of fees are kept
 - you have effective arrangements for handling complaints and inform clients about them
 - you are able to identify and take notice of all relevant guidance and rule changes issued by the Bar Standards Board.
24. There is no single right way of achieving this. Due to the diverse nature of sole practitioners' practice no specific software package can be recommended. You would be wise to consider the requirements of quality accreditation, so if you apply your system is already in place. The longer the system has been in place the more impressive it will be to the person who assesses your application.

Can I negotiate my own fees?

25. Yes.

Can I practise from home?

26. Yes.

Do I have to have my name outside the place where I practise?

27. No.

What equipment and support will I need?

28. This will depend on the nature of your practice. It is likely that you will need a computer with access to the internet.
29. For information about IT security best practice please refer to our IT guidance [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](#).