



Law Society
of Scotland



International
Conference of
Legal Regulators

Workshop E2: Open space session: review of code of conduct

Moderator:

Dr Vanessa Davies, Bar Standards Board

Review of the BSB Handbook: Show us how to do it!

ICLR, 6 September 2019

Vanessa Davies

Director General, BSB

Ewen MacLeod

Director of Strategy and Policy

Michael Jampel

Head of Policy and Research

Iain Miller

Kingsley Napley, Chair of ARDL

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

What our current Handbook looks like

Core Duties

Outcomes

Rules

Guidance

(plus more elsewhere)

Definitions

SECTION C: THE CONDUCT RULES
C5: You and your practice

C5. You and your practice

O Outcomes

- oC24** Your practice is run competently in a way that achieves compliance with the Core Duties and your other obligations under this Handbook. Your employees, pupils and trainees understand, and do, what is required of them in order that you meet your obligations under this Handbook.
- oC25** Clients are clear about the extent to which your services are regulated and by whom, and who is responsible for providing those services.

C5.1 General

R Rules

Client money

- rC73** Except where you are acting in your capacity as a manager or employee of an authorised (non-BSB) body, you must not receive, control or handle client money apart from what the client pays you for your services.
- rC74** If you make use of a third party payment service for making payments to or from or on behalf of your client you must:
1. Ensure that the service you use will not result in your receiving, controlling or handling client money; and
 2. Only use the service for payments to or from or on behalf of your client that are made in respect of legal services, such as fees, disbursements or settlement monies; and
 3. Take reasonable steps to check that making use of the service is consistent with your duty to act competently and in your client's best interests.
- rC75** The Bar Standards Board may give notice under this rule that (effective from the date of that notice) you may only use third party payment services approved by the Bar Standards Board or which satisfy criteria set by the Bar Standards Board

G Guidance

Guidance on Rules rC73 and rC74

- gC103** The prohibition in Rule rC73 applies to you and to anyone acting on your behalf, including any "ProcureCo" being a company established as a vehicle to enable the provision of legal services but does not in itself supply or provide those legal services. Rule rC73 prohibits you from holding client money or other client assets yourself, or through any agent, third party or nominee.
- gC104** Receiving, controlling or handling client money includes entering into any arrangement which gives you de facto control over the use and/or destination of funds provided by or for the benefit of your client or intended by another party to be transmitted to your client, whether or not those funds are beneficially owned by your client and whether or not held in an account of yours.
- gC105** The circumstances in which you will have de facto control within the meaning of Rule rC73 include when you can cause money to be transferred from a balance standing to the credit of your client without that client's consent to such a withdrawal. For large withdrawals, explicit consent should usually be required. However, the client's consent may be deemed to be given if:

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Discussion

Questions

1. What is 'regulatory best practice' in ***substance***?
2. Best practice re ***process***?
3. Best practice re ***accessibility***?

Have you recently/are you about to review your rulebook? What do you wish you had known when you started?

Please split into groups for 20 minutes,
then we will reconvene to report back.

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Report back

Groups

1. What is 'regulatory best practice' in ***substance***?
2. Best practice re ***process***?
3. Best practice re ***accessibility***?

What do you wish you had known when you started?

Conclusion and next steps

Our Call for Evidence remains open until
28 October 2019 at:

<https://www.barstandardsboard.org.uk/media-centre/press-releases-and-news/call-for-evidence-to-help-improve-bsb-handbook/>

or email:

ProfessionalStandards@BarStandardsBoard.org.uk

We welcome further input.

We should know the way forward by end-2019.

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