

Public Access Update

A talk by Andrew Granville Stafford for the Public Access Bar Association

19 December 2012

Beginnings

2001: OFT 'Competition in Professions' - Kentridge Report

9.7.04: Code of Conduct amended so that a barrister may accept instruction 'by or on behalf of' any lay client'

Crime, family and immigration work excluded

2010 changes

BSB review leads to dropping restrictions on crime, family and immigration

Correspondence: Bar Council guidance – *Agassi v Robinson* [2005] EWCA Civ 1507 – new para 401A of Code of Conduct

2013 changes:

Publicly funded work

Current rule: cannot accept public access instructions if 'it is likely that the lay client would be eligible for public funding' (r.3(1) Public Access Rules)

Bar Council guidance, June 2011: 'Any lay client who would be likely to be eligible for public funding if he applied for it is a client from whom a barrister may not accept instructions on a public access basis.'

Bar Standard Board consultation, November 2011

Proposed new rule: barrister must 'take such steps as are reasonably necessary to ensure that the client is able to make an informed decision about whether to apply for legal aid or whether to proceed with public access.'

Three year rule

Current rule: barristers with less than three years' practising experience prohibited from accepting public access

LSB & Law Society resistance to change

Proposed new regime: three year rule abolished, however:

- must have a ‘qualified person’ available to give guidance
- must keep a log of cases, and
- where possible seek feedback from clients

New training requirements

Issue: only current requirement is to have ‘undertaken and satisfactorily completed’ BSB approved training course.

Current providers:

College of Law: £230 plus VAT; 6 hrs CPD

Bar Member Services: £255-285 plus VAT; 6.5 hrs CPD

BarristersDirect.co.uk (4 KBW): £210 plus VAT; 5 hrs CPD

Westgate Chambers, Leeds

New proposals:

- 12 hours minimum
- mandatory assessment at the conclusion of course
- top-up training for those currently qualified
- appropriate proportion of CPD to be public access focussed
- training providers enter in to a contract with BSB, submit annual reports and be subject to external assessment

Miscellaneous

Revised client care letter

Revised guidance – ‘Bar Standards Board Public Access Work Guidance for Barristers’

BTE insurance (*Pine v DAS Legal Expenses Insurance Co Ltd* [2011] EWHC 658)

Statements of truth (*BSB v O’Connor* [2012] All ER (D) 108)

Bar Council’s Public Access Helpline: 020 7611 1472

Escrow account (‘BARCO’):

Barristers conducting litigation

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