

BAR MUTUAL

Bar Mutual and Insurance for Bar Standards Board-Regulated Entities

Frequently Asked Questions

- *What does Bar Mutual mean by an “Entity”?*

An entity is any limited company, limited liability partnership or unlimited partnership regulated by the BSB.

- *What does Bar Mutual mean by a “Single Person Entity”?*

A limited company, limited liability partnership or unlimited partnership with one fee-earner.

- *What does Bar Mutual mean by a “Multi-Person Entity”?*

A limited company, limited liability partnership or unlimited partnership with more than one fee-earner.

- *Will Bar Mutual be offering insurance to BSB-regulated entities?*

For the 2015 policy year, Bar Mutual will insure all single person entities that seek cover from it. Multi-person entities will be insured on a case by case basis.

- *Will Bar Mutual distinguish between (a) single person entities and (b) multi-person entities?*

Yes. As stated above, for the 2015 policy year, Bar Mutual will cover all single person entities and will cover multi-person entities on a case by case basis.

- *How will Bar Mutual rate entities?*

Bar Mutual will rate entities in the same way as it provides rating for self-employed barristers – that is, by considering fee receipts and the areas of practice in which those fees were earned.

- *If a self-employed barrister decides to establish a BSB-regulated entity and to conduct his or her entire practice via that entity, will he or she have to purchase run-off cover to deal with claims arising from his or her previous self-employed practice?*

No. The BSB Minimum Terms of Entity Cover deem the entity to be the “Successor Practice” of any “Prior Practice” that has been regulated by the BSB. This means that the entity’s cover with Bar Mutual will respond to claims arising from his or her previous practice as a self-employed barrister. There will be no insurance “black hole” for either the barrister or his or her former clients.

- *If a barrister decides to continue to accept some instructions as a self-employed barrister and establishes an entity to conduct the balance of his or her practice, what is the insurance position? Will two insurance policies (one for the self-employed practice and one for the entity) be necessary?*

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Yes. Two insurance policies will be required, one for the barrister's continuing self-employed practice and the other for claims arising from work performed on behalf of the entity.

- *If a fee-earner of an entity is sued personally in addition to, or instead of, the entity in relation to work done on behalf of the entity, will he or she have cover under the entity's insurance?*

Yes. The definition of "Insured" in the Bar Mutual Terms of Cover includes fee-earners and employees of the entity.

- *Will there be cover for an entity for a claim arising from the dishonesty of a fee-earner or an employee?*

In the case of a single person entity, the sole fee-earner's dishonesty or complicity in the dishonesty will mean that Bar Mutual will be entitled to deny cover. For a multi-person entity, cover will depend on who was dishonest or complicit in the dishonesty.

- *Is it compulsory for BSB-regulated entities to insure with Bar Mutual?*

Not at present. However, the BSB is currently consulting on whether to extend the existing obligation on self-employed barristers to insure with Bar Mutual contained in rC77 of the BSB Handbook to single person entities. Bar Mutual supports such an extension.

- *If a self-employed barrister establishes an entity and decides to obtain insurance from an insurer other than Bar Mutual, will Bar Mutual still cover claims arising from that barrister's former self-employed practice? What about an entity that insures with Bar Mutual in year 1, but insures elsewhere in year 2? Or the reverse situation – insurance with a commercial insurer in year 1 and insurance with Bar Mutual in year 2?*

Any claim arising from the prior self-employed practice that was not notified to Bar Mutual prior to the end of that practice and the termination of the self-employed barrister's policy with Bar Mutual will attach to the cover in place when it is notified. As stated above, the BSB Minimum Terms of Entity Cover require the entity's insurance to deal with claims relating to a Prior Practice to which the entity is a Successor Practice.

- *Does the fee-earner in a single person entity have to have previously practised as a self-employed barrister? If the fee-earner had previously practised as a solicitor but does not have Higher Court Advocacy rights, does this render the single person entity ineligible for membership of Bar Mutual?*

No. If the BSB decides that the activities to be undertaken by the single person entity are compatible with its Entity Regulation Policy Statement and authorises it to practise, Bar Mutual will provide cover.

- *Will non-fee-earners be covered?*

Yes. Employees of the entity and non-fee-earners will be covered, by virtue of the extended definition of "Insured".

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- *Will there be a minimum level of cover for entities insured by Bar Mutual?*

Yes. The minimum level of cover will be £500,000 plus defence costs, each and every claim, the same minimum level as currently applies to self-employed barristers.

- *Will entities have to pay an excess in the same way as self-employed barristers?*

Yes, an excess of £350 will be payable if a wasted costs order is made against an entity or if a complaint of professional misconduct is upheld by a disciplinary tribunal.