

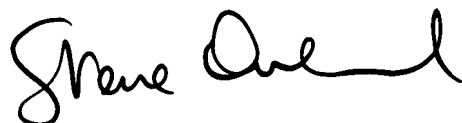
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Foreword

1. The Community Legal Service and Criminal Defence Service were created following the Access to Justice Act 1999, and required the Legal Services Commission to develop quality assurance mechanisms for organisations, including Chambers, or individuals providing legal services.
2. The initial standards covered 1st tier (direct to client) services. The Quality Mark for the Bar is the first development into 2nd tier services and marks an important stage in the evolution and development of the Community Legal Service (CLS) and the Criminal Defence Service (CDS).
3. I would like to take this opportunity to thank everyone who has contributed to the development of the Quality Mark for the Bar, especially those individuals who have given up their valuable time to participate in the working group. The group included representatives from the Bar Council, the Lord Chancellor's Department, the Crown Prosecution Service, the Institute of Barristers Clerks, the Legal Practice Management Association and representatives from Chambers. It has been developed drawing significantly on existing quality standards, especially the Bar Council's Code of Conduct, BARMARK and the Specialist Quality Mark.
4. We have been delighted with the commitment and enthusiasm shown by each and every member of the working group, together with the support provided by the organisations they have represented. I believe the professionalism shown by the participants has produced a standard which comprises a set of quality criteria designed to ensure a competent service to clients of chambers. It also sends a clear message that the LSC is committed to work ever closer with the legal sector in establishing the future of quality assurance.
5. I would also like to express my thanks to the representatives of a number of Chambers which the working group visited to better understand normal working procedures and to ensure the quality criteria would reflect good practice.
6. Finally, I would like to thank all those who participated in the consultation process, whether through taking the time to provide detailed written responses to the consultation document, or through the seminars held across the country towards the end of last year. The nature of the responses we received was extremely constructive and provided the LSC with a great deal of assistance in the writing of the final standard. I hope you will agree, that the Quality Mark for the Bar establishes an organisational structure that will provide all clients with a competent service.



Steve Orchard

Chief Executive, Legal Services Commission

Summary and Introduction

1. The Access to Justice Act 1999 introduced the Community Legal Service (CLS) and the Criminal Defence Service (CDS). The Quality Mark (QM) is the name given to the quality assurance standards underpinning the quality of work undertaken by all organisations of the CLS and CDS entitled to display the CLS and CDS logos.
2. This document outlines the quality requirements for Quality Mark for the Bar. Development of the Quality Mark for the Bar was undertaken by a working group including representatives from: the Lord Chancellor's Department, the LSC, the Bar Council, the Crown Prosecution Service, Chambers' and Barristers' representatives, and other providers and stakeholders in the field. The working group, established in May 2000, considered the Bar Council's Code of Conduct, BARMARK and the Specialist Quality Mark, and subsequently the group visited several chambers in order to ensure that the standard was appropriate for the profession. In common with the development process for all Quality Mark standards, the LSC's objective has been to work in partnership with the Bar to ensure that the final standard commands wide support amongst the profession and its clients. Following the consultation the group was extended to include representation from the Institute of Barristers Clerks and the Legal Practice Management Association.

Format

3. There are six sections in this document covering:
 - The Legal Services Commission
 - The Quality Mark and an overview of the Quality Framework
 - The Application Process
 - The Audit Process
 - The Quality Mark for the Bar and Guidance to the Requirements
 - Representation
4. The Quality Mark for the Bar has been structured to make a clear distinction between Requirements, Definitions and Guidance:
 - Requirements – These are the mandatory requirements which Chambers must meet in order to be granted a Quality Mark, or for an existing Quality Mark to continue.
 - Definitions– These define and expand on the requirements and are mandatory.
 - Guidance – For each process, procedure or activity, background information and further explanation together with suggested solutions and cover some of the methods employed by auditors to find evidence.
5. Any Chambers applying for the Quality Mark for the Bar will need to meet the requirements and definitions set out in this document in section 5.

6. The guidance has been created to provide further detailed explanation, suggest ways in which the requirements can be met (but other ways of achieving the requirements will be accepted at audit), and generally provides information about how auditors seek evidence of compliance with the requirements (auditor guidance). Again, how auditors seek evidence should not be taken as a substitute for the requirements themselves. The information is provided simply to increase general understanding of the Quality Mark for the Bar as a whole.

Implementation

7. The implementation process will take place as follows:
 - Applications will be accepted from a date to be agreed. Audits will be scheduled to begin within two months of receipt of satisfactory applications. Please refer to section 3, “The Application Process” and section 4, “The Auditing Process”.
 - Those holding the Bar Council Quality Standard, BARMARK, will automatically be passported into the Quality Mark for the Bar, upon undertaking to meet the additional requirements within 12 months of the application.

Audit

8. A central feature of the Quality Mark family of standards is that they are all audited by the LSC. The Quality Mark for the Bar will become one of this family of standards and will be audited by the LSC. The auditing process will mirror that which is already in place for the Specialist Quality Mark. Details of the auditing process can be found in section 4 of this standard.

Reviews and Appeals

9. A review and appeal process is to be agreed with the Bar Council and will be available from the LSC upon request. Key elements are :
 - The appeal body to comprise of one representative from the LSC and a nominee from the Bar
 - In the event of lack of unanimity the matter to be referred to a second appeal body comprising one representative from the LSC, a nominee from the Bar and a representative from the organisation auditing BARMARK, currently British Standards Institute
 - In the event of lack of unanimity at the second hearing the matter to be decided by majority

Certification

10. Certification to any one of the family of Quality Mark allows the organisation to display the CLS logo. The CLS is a government initiative introduced in April 2000 under the Access to Justice Act (1999). Further details can be found in section 1.

Ongoing Developments

11. The Quality Mark for the Bar is primarily a management standard for Chambers, which seeks to set an acceptable level of service but does not test the quality of advice. A steering group comprising representatives of the Bar Council, the Crown Prosecution Service, the Lord Chancellor's Department and the LSC, the Institute of Barristers Clerks and the Legal Practice Management Association, together with Chambers' representatives, will oversee the ongoing development process.
12. The LSC supports the inclusion of the CPS in the steering group and recognises their contribution, but also recognises concerns raised by the Bar that the inclusion of the CPS may have an impact on criminal defence work. The LSC views it as perfectly reasonable to incorporate standards required by clients where these are known particularly when the client is a major funder and a public body. However the LSC positively supports the assertion that there is a distinction between the CPS and the LSC/CDS and will ensure that safeguards are in place to alleviate potential conflict between defence and prosecution work in chambers.

1. The Legal Services Commission

1. The Legal Services Commission (LSC) replaced the Legal Aid Board on 1 April 2000. This change reflected the substantial development of the role previously undertaken by the Legal Aid Board. The LSC administers the Criminal Defence Service (CDS) fund – previously Criminal Legal Aid, and the Community Legal Service (CLS) fund – a controlled budget available only for clients meeting defined eligibility criteria. The LSC is mandated by the Access to Justice Act 1999 to identify the need for legal services generally and plan what can be done towards satisfying that need. The necessary legal services will be identified and provided, not by the LSC alone, but in co-operation with others, funders and suppliers alike. The Act specifically states that the LSC should “facilitate the planning by other authorities, bodies and persons of what can be done by them to meet that need by the use of any resources available to them.”

1.1 The Criminal Defence Service (CDS)

2. The CDS, launched in April 2001, replaced the Criminal Legal Aid scheme and is the responsibility of the LSC. The CDS has a separate budget from the CLS and is a distinct scheme. This separation reflects the fact that the two schemes are responsible for providing different types of service in very different types of case, and that each scheme has its own objectives and priorities.

1.2 The Community Legal Service (CLS)

3. The CLS, launched in April 2000, aims to improve access for the public to quality information, advice and legal services through local networks of quality-assured services supported by co-ordinated funding, based on an assessment of local need.
4. The CLS is working to achieve its aims in three ways (see sections 1.3, 1.4 and 1.5).

1.3 Community Legal Service Partnerships

5. Community Legal Service Partnerships (CLSPs) seek to achieve better co-ordination of services through local partnerships between the LSC, Local Authorities, and other funders of advice and information services together with the service providers, including those in the voluntary and public sectors and solicitors. Partnerships undertake analysis of the local need for legal information and help against current provision, and work towards a better balance between funding, service provision and local need. In this way, future services will be planned with the aim of improving both the quality and the accessibility of legal information and help.

1.4 The Quality Mark

6. This is the quality standard for all legal information, advice and specialist legal services. The Quality Mark for the Bar is described in this document. Entitlement to display the CLS logo is achieved following certification to any one of the Quality Mark standards.

1.5 Communication

7. The CLS/CDS Directory provides information on Quality Marked suppliers in England and Wales, including the level of service and categories of work they provide. Copies of the Directory can be found in many local organisations and facilities including libraries, courts, benefits agencies, prisons, etc. The CLS website (www.justask.org.uk) enables the public to find out more about the CLS, in addition to providing online access to the CLS/CDS Directory of service providers. The LSC provides a Call Centre (0845 6081122) where members of the public can obtain details of CLS and CDS suppliers.
8. The CLS is not limited to organisations receiving public funding. It is considerably broader in concept and can encompass any organisation or individual, whether receiving public funds or charging fees, that provides a legal service and meets the Quality Mark standard. Section 4 (2) of the Access to Justice Act describes the services that can be accepted for assessment. These are:

'The provision of general information about the law and legal system and the availability of legal services.

The provision of help by the giving of advice as to how the law applies in particular circumstances.

The provision of help in preventing, or settling or otherwise resolving, disputes about legal rights and duties.

The provision of help in enforcing decisions by which such disputes are resolved.

The provision of help in relation to legal proceedings not relating to disputes.'
(Source: Access to Justice Act 1999)

1.6 The Legal Services Commission's Role

9. The LSC's role is to:
 - (a) Work in partnership with providers of legal services to develop and review appropriate quality assurance standards for all members and potential members of the CLS and CDS
 - (b) Assist, where possible, in helping Chambers meet the Quality Mark standards through workshops, user groups and external support networks
 - (c) Seek confirmation, by a process of auditing, that the requirements set out in the Quality Mark standards are in place and are being maintained by organisations forming part of the CLS and CDS
 - (d) Act in good faith and as a responsible public body required to discharge its functions under the Act.
10. The LSC will assess and monitor the impact of the requirements in the standard to ensure that it does not unintentionally exclude or discriminate against (on the grounds of race, disability, sexual orientation, gender, religion or language) any set of Chambers providing services under the Quality Mark.

1.7 Auditor Confidentiality

11. Employees' terms and conditions of employment with the Legal Services Commission provide that they are subject to Section 20 of the Access to Justice Act 1999, and Section 38 of the Legal Aid Act 1988, which obliges employees not to disclose to any unauthorised person any information furnished to the LSC in connection with the case of a person seeking or receiving advice, assistance or representation.
12. In addition, employees undertake that during their employment and thereafter they will not (except in the proper course of their employment, or as required by law) directly or indirectly use or divulge to any unauthorised person any secret or confidential information concerning any third party (including any Quality Marked organisations or their clients). The LSC has an obligation not to disclose such information and employees undertake that they use their best endeavours to prevent any unauthorised publication or disclosure of such information.

1.8 CLS/CDS Logos

13. There are separate logos for the CLS and CDS, which suppliers may use according to guidelines published separately (see Appendix 1).

*Community
Legal Service*



*Criminal
Defence Service*



14. The CDS logo has been developed to indicate a specialism in criminal defence work. It is important that only Chambers which are specialists in criminal defence work display the CDS logo. A Chambers which displays the CDS logo is expected to:
 - Have a member of Chambers who regularly advises on aspects of criminal defence work;
 - Have a member who regularly represents defendants in the Crown Court.

1.9 Further Guidance and Information

15. Information relevant to Chambers is contained in a variety of publications, including the LSC newsletters Focus, Quality Mark News and CLSP News.
16. The use of other media, including e-mail, electronic data interchange (EDI) and the Internet is being developed. The LSC website: www.legalservices.gov.uk incorporates updates on changes to LSC regulations and documentation.

1.10 Evaluation

17. The LSC seeks to consult regularly with all Quality Marked Chambers. This consultation will take place in a number of ways: regional meetings,

questionnaires issued at audit visits, correspondence and, when appropriate, via specially convened group discussion sessions. All documents for consultation are published on the LSC website.

18. We actively seek comments and feedback on our own performance to help us to improve our own processes in order to provide the best possible service to all Chambers within the CLS and CDS.

2. The Quality Mark

1. The Quality Mark is the quality standard for legal information, advice and specialist legal services. It comprises a set of standards designed to ensure that a service is well run and has its own quality control mechanisms that assure the quality of the information that the service provides.
2. There are three essential elements to the scheme:
 - (a) The specification of standards of quality assurance that the Legal Services Commission (LSC) expects suppliers to meet.
 - (b) Audits by the LSC (or bodies authorised by the LSC) to ensure that standards are being achieved and maintained.
 - (c) Continuous improvement in the service offered by suppliers of legal services to their clients.
3. Experience of quality assurance to date enables both suppliers and the LSC to see opportunities for improvement, not only in terms of the quality assurance standards themselves, but also in the way that they are interpreted for the benefit of clients, Quality Mark providers, taxpayers and funders.

2.1 Quality Mark Structure

4. Continuous improvement is an integral part of quality assurance. The quality criteria will evolve and develop over time and the LSC will work in conjunction with a wide variety of organisations from the legal sector to achieve this. Due notice will be given to all suppliers of any changes to be made.
5. The standards cover seven key quality areas, known as the Quality Mark Framework:
 - (a) **Access to Service:** Planning the service, making others aware of the service and non-discrimination.
 - (b) **Seamless Service:** Referral to other agencies where appropriate.
 - (c) **Running the Organisation:** The roles and responsibilities of key staff, and financial management.
 - (d) **People Management:** Equal opportunities for staff; training and development.
 - (e) **Running the Service:** Case management.
 - (f) **Meeting Clients' Needs:** Providing information to clients, confidentiality, privacy and fair treatment.
 - (g) **Commitment to Quality:** Complaints, other user feedback and maintaining quality procedures.

2.2 Benefits of Achieving the Quality Mark

6. The experience of franchised solicitors and NfP agencies over the past six years has shown that the implementation of improved management and administration systems, as required by the Quality Mark, brings numerous benefits in terms of increased efficiency and improved use of resources. These benefits include:
 - (a) **Improved risk management:** Effective risk management can reduce the likelihood of insurance claims. Research conducted by the insurance industry has identified the that main causes for claims arise from poor administration and managerial control.
 - (b) **Improved client care:** Where effective client care procedures are in place, the risk of complaints from clients is greatly reduced. A large number of complaints from clients are due to misunderstandings caused by insufficient or incorrect information provided to the client.
 - (c) **Efficient management practices and reduced costs:** Having effective management systems leads to a reduction in administrative failures, preventing wasted costs and poor service to clients.
 - (d) **Effective deployment of resources:** Where effective training, assessment and support are provided, staff motivation and morale are improved, and each staff member is able to contribute to the running of Chambers to the best of their ability.
 - (e) **Increased client confidence:** As the CLS and CDS develop, public recognition of the respective Quality Mark logos will develop, resulting in clients choosing to access CLS and CDS members for information or help.

3. The Application Process

3.1 Introduction

1. Applicants for the Quality Mark for the Bar will need to comply with all the quality requirements in the standard, and provide objective evidence of this compliance to the Legal Services Commission's (LSC's) auditors.

3.2 Passporting Chambers with BARMARK

2. If Chambers have BARMARK, when applying for the Quality Mark, they should confirm that they have been awarded BARMARK and send a copy of their certificate with their application form. They will then be sent a self-assessment checklist to confirm that they will be able to evidence the Quality Mark requirements within twelve months.
3. At this stage they will be awarded a Quality Mark and will enter the LSC's post Quality Mark audit cycle. At the post Quality Mark audit they will be required to evidence all the requirements of Quality Mark in full.

3.3 Stages

4. The Quality Mark certification process extends through a number of stages, each of which is explained in this document:
 - (a) Application and desk-top audit.
 - (b) Preliminary audit.
 - (c) Pre Quality Mark audit.
 - (d) Post Quality Mark audit (repeated usually on an annual basis).

3.4 Applications and Desktop Audit

5. The application should be submitted to the Regional Office covering the geographical area in which the Chamber's premises are located.
6. In order to apply, applicants will need to submit:
 - A completed Application Form.
 - A completed self-assessment checklist.
 - Copy of Office Manual / documented procedures.
 - Status Enquiry forms where applicable.
7. Copies of the documented procedures and/or the office manual will be returned to the Chambers at the Preliminary audit.
8. The application, including the submitted documentation, will be reviewed by Regional Office staff to ensure it addresses Quality Mark requirements. This is known as the desktop audit. If the documentation is incomplete, or it is clear that the Chambers will need to carry out a substantial amount of work before their procedures begin to comply with the standard, the auditor may refuse the

application at this stage and the documentation will be returned. The auditor will inform the applicant of the omissions that have been observed. We aim to complete the process within 28 days of receipt of the completed application.

9. Where the application is accepted at the desktop audit, the Regional Office will contact the Chambers to arrange a Preliminary Audit.

3.5 Multi-Site Applications

10. Where a Chambers has a number of sites where permanent staff are based to deliver the service, and they wish to apply for certification for two or more of these sites, a multi-site application should be made. The Chambers must nominate the main site (known as lead site), and the application form allows details of the other sites or annexes to be included.
11. Where quality procedures are common to all sites, it is not necessary to provide copies of procedures and supporting documents for each site.
12. If Chambers operate in more than one Regional Office area, one Regional Office will deal with all related Quality Mark applications unless special arrangements are made to the contrary. The multi-site application should be submitted to the Regional Office based in the region where the main site (lead site) of the Chambers is located. That Regional Office will then coordinate the assessment and arrange audit visits.
13. Applications from different sites of the same Chambers will be accepted at different times, but a separate application form must be submitted for the site(s) applying subsequently.

4. The Auditing Process

4.1 Audit Conduct

1. Following successful completion of the application process and the desktop audit, the Chambers moves on to the preliminary Quality Mark audit stage.
2. At the preliminary, pre Quality Mark and post Quality Mark stages, there will be an audit at the Chambers' premises. Auditors will notify the Chambers of the date of the audit between six and eight weeks prior to the audit. At this stage, they will also identify which members and staff they will most likely want to speak to at audit, in order to enable Chambers to plan appropriately. A suitable date for the audit will be agreed between the LSC audit staff and the Chambers. The audit will normally be completed within one day. Where Chambers have applied for the Quality Mark for multiple sites, the audit visit may extend beyond one day.
3. At each audit, the auditors will introduce themselves at an opening meeting, and ensure that the Chambers understands the purpose of the audit. At the meeting they will set out the objectives and the scope of the audit. They will give an early indication of those people they are most likely to want to see and the central records to which they will need access. They will discuss how the audit will proceed and how any quality concerns will be dealt with.
4. Various documentation will be requested from the Chambers by the auditor in order to verify that the procedures and systems meet the Quality Mark requirements. Some of these documents will be requested with the application. In addition some documents will be requested in advance of the audit and some on the day of the audit itself. The auditor will also request to see some of the Chambers' staff to discuss procedures and practices. Chambers should endeavour to co-operate as fully as possible with any such requests. Failure to do so may mean that the auditor will not be able to evidence compliance with all of the Quality Mark requirements, and therefore will be unable to recommend the grant or continuance of the Quality Mark.
5. Each Chambers will be asked to appoint a Quality Representative who will be the principal point of liaison with the LSC's auditors. Any issues that arise during the audit will be fully discussed with the Quality Representative before they are formally recorded. This gives the Chambers the opportunity of ensuring the auditor has access to all relevant information and evidence and ensures there is no misunderstanding or misinterpretation of the evidence.
6. When the audit has been completed, the auditor will present the audit findings to the Quality Representative(s) and any other personnel invited by the Chambers to the closing meeting. The purpose of this closing meeting is to ensure that the Chambers has a clear understanding of the results of the audit and can agree a timescale for any action that needs to be taken. The auditor will be able to indicate at this point whether or not the award or continuation of a Quality Mark will be recommended to the Director, Quality Standards.

4.2 The Preliminary Audit

7. Following successful completion of the desktop audit process, a preliminary audit will take place, normally within sixty days of the acceptance of the application.

8. The purpose of the preliminary audit is for the LSC to establish that the Chambers will be able to meet the quality requirements at the pre Quality Mark audit. To evidence this, the Chambers will need to have in place all the necessary procedures and processes and satisfy the auditor that these will be in effective operation within three months of the preliminary audit.

4.3 Pre Quality Mark and Post Quality Mark Audits

9. As it is not possible to verify that a system is fully compliant with the standard unless it has been in operation for a period of at least three months, the pre Quality Mark audit will generally take place between four and six months after the Preliminary audit. During this audit, the auditor will be seeking evidence to demonstrate compliance with the Quality Mark and evidence that compliance will be maintained following the audit.
10. To ensure that management systems continue to operate effectively, and that compliance with the Quality Mark is maintained, and to assess continued performance, a first post Quality Mark audit is usually conducted at an interval of between 9 and 12 months after the pre Quality Mark audit and annually thereafter. However, the LSC reserves the right to carry out an audit at any time subject to the required notice.
11. The LSC may alter the frequency and content of the post Quality Mark audit. Note: For Chambers already holding BARMARK the first LSC audit will be a post Quality Mark audit (see application process and flowchart).

4.4 Audit Reporting

12. At the end of the audit, the auditor will present the audit findings to the Quality Representative. The report will be compiled in the light of the evidence recorded and all other information available.

4.5 Evidence reporting

13. Against each section of the Quality Mark framework (i.e. sections A-G), the auditor will report on the evidence they have found to demonstrate the Quality Mark requirements have been met.

4.6 Observations

14. Observations raised on audit will form part of the audit report but will not result in recorded Quality Concerns. These will be noted on the audit report as areas where the quality requirements are not complied with fully but where there is evidence that the Chambers has a clear commitment to fully meeting the standard. For some observations the Chambers may be required to submit details of the (proposed) corrective action.
15. For example, a number of the requirements relate to documented plans/procedures. It is extremely unlikely at the preliminary, pre and post Quality Mark audits for copies of these documents not to be available but they may be out of date, un-reviewed or updated, although they will exist. These omissions will generally be recorded as observations with corrective action required within 28 days.

4.7 Quality Concern(s)

16. Where an auditor has not been able to identify sufficient evidence to satisfy the requirements, this will lead to a Quality Concern being recorded.
17. All the individual quality requirement in the Quality Mark have been classified as either “**Critical**” – directly associated with the quality of service and client care or “**General**” – more closely associated with the management and operational control of the service.
18. For the concern to be classified as “**General**”, it is judged as not likely to have a serious impact on the overall quality of the Chambers’ work or to undermine the quality of service given to a client.
19. Where two or more **General Quality Concerns** are recorded, this may lead to a **Critical Quality Concern** being raised. This is likely to occur when the auditor considers the extent of the breakdown in Chambers quality systems to be sufficient to undermine the quality of service or client care.
20. For the concern to be classified as “**Critical**”, there will be evidence that a requirement in the standard is not being met, or is not in effective operation, and is likely to undermine the quality of service given to clients. (At the preliminary audit only, “effective operation” is required within three months of the audit.) A **Critical Quality Concern** will also be raised where a **General Quality Concern** or observation has been recorded and satisfactory corrective action has not been received or implemented within the required timescale.

4.8 Corrective Action

21. Within 28 days of the audit the Chambers must submit to the auditor the detail of corrective action taken, or proposed, to satisfy the Quality Concern or those observations requiring corrective action. Where procedures require drafting or amendment, these must be completed and sent to the auditor within 28 days of the audit.
22. For **General Quality Concerns** or **Observations** requiring corrective action, failure to provide satisfactory corrective action within the allowed 28 days will result in the issue of a **Critical Quality Concern**. The Chambers will then have a further 28 days to submit satisfactory corrective action.
23. For **Critical Quality Concerns** where satisfactory corrective action is not submitted within the 28 days, a recommendation will be made to refuse or terminate the Quality Mark.
24. The prime purpose of corrective action is to ensure that at any subsequent audit following the 28 days allowed for the corrective action, the Chambers is fully compliant and a further quality concern would not be raised.
25. For some **Critical Quality Concerns**, the severity or extent of the failure to meet the requirements will mean that corrective action is not possible within the 28 days allowed, and will lead to the refusal or termination of the Quality Mark. An example would be:

26. Significant failure in the complaints procedure evidenced by significant and substantive unaddressed complaints.
27. The LSC considers it essential that Chambers demonstrates a commitment to providing a quality assured service. The identification and successful implementation of corrective action is a fundamental element of the commitment to quality and continuous improvement.

4.9 Recommendation

28. In considering whether to recommend to the Director, Quality Standards to grant, refuse or terminate the Quality Mark, auditors will have regard to the number and extent of **General and Critical Quality Concerns** raised in addition to the overall level of compliance with the standard demonstrated by the Chambers.
29. The Chambers will receive written confirmation of the decision made by the Director, Quality Standards.
30. **Critical Quality Concerns** will remain on record for three years from the date of issue for the purposes of recording recurring **Critical Quality Concerns** (see paragraph 51).

4.10 Audit Recommendations – the options

4.10.A Preliminary Audits (see Flowchart 1)

31. After the preliminary audit the auditor will make one of the following recommendations:

Pass (no Quality Concerns or Observations requiring corrective action)

32. Where there are no quality concerns or observations requiring corrective action, the auditor will recommend to the Director, Quality Standards that the Chambers should be awarded a provisional Quality Mark and should continue to the next stage of the Quality Mark process.

Pass with corrective action

33. The auditor will require the Chambers to submit (within 28 days of the audit) notification of the corrective action it has taken, or will take, to satisfy the Quality Concerns and observations.
34. If details of the proposed correction action are not received within the timescale, or if the auditor considers that the (proposed) corrective action is not satisfactory, they will recommend to the Director, Quality Standards that the Chambers should be refused the provisional Quality Mark.
35. If the auditor considers that the (proposed) corrective action is satisfactory, they will confirm that the Quality Concern has been satisfied and recommend to the Director, Quality Standards that the Chambers should be awarded the provisional Quality Mark and should continue to the next stage of the Quality Mark process.
36. In some cases, the auditor may need to visit (and re-audit) the Chambers to determine whether or not the (proposed) corrective action is satisfactory.

Fail

37. The auditor will recommend to the Director, Quality Standards that the Chambers should be refused the provisional Quality Mark under the following circumstances:
38. One or more **Critical Quality Concern** identified for which corrective action is not possible within the 28 days allowed.
39. Satisfactory corrective action has not been provided for **Critical Quality Concerns** where corrective action was possible within the 28 days allowed.
40. At the preliminary audit only, **Critical Quality Concerns** will only be raised where a system would not be in effective operation, within three months of the audit. The auditor may also make this recommendation if status enquiries of professional bodies etc. reveal adverse findings.
41. Where the auditor recommends the refusal of the provisional Quality Mark, the Chambers may make representations to the Director, Quality Standards against the recommendation. In every case, the decision is made by the Director, Quality Standards, although Chambers may apply for a review of the decision.

4.10.B Pre Quality Mark or Post Quality Mark audits

42. Following completion of a **Pre Quality Mark** or **Post Quality Mark** audit, the auditor will make one of the following decisions:

Pass (no Quality Concerns or Observations requiring corrective action)

43. The auditor will recommend to the Director, Quality Standards that the Chambers should be awarded a Quality Mark.

Pass with corrective action

44. The auditor will require the Chambers to submit (within 28 days of the audit) notification of the corrective action it has taken, or will take, to satisfy the Quality Concerns.
45. If details of the proposed corrective action are not received within the timescale, or if the auditor considers that the (proposed) corrective action is not satisfactory, they will (subject to paragraph 4.9.28) recommend to the Director, Quality Standards either that the Chambers should be refused the Quality Mark and that the provisional Quality Mark should be terminated or that the Quality Mark should be terminated
46. If the auditor considers that the (proposed) corrective action is satisfactory, they will (subject to paragraph 4.9.28) satisfy the Quality Concern and, if the Chambers holds a provisional Quality Mark, recommend to the Director, Quality Standards that the Chambers should be awarded the Quality Mark.
47. In some cases, the auditor may need to visit (and re-audit) the Chambers to determine whether or not the (proposed) corrective action is satisfactory.

Fail

48. The auditor will recommend to the Director, Quality Standards either that the Chambers should be refused the Quality Mark and that the provisional Quality Mark should be terminated or that the Quality Mark should be terminated under the following circumstances:
- (i) One or more **Critical Quality Concern** identified for which corrective action is not possible within the 28 days allowed.
 - (ii) Satisfactory corrective action has not been provided for **Critical Quality Concerns** where corrective action was possible within the 28 days allowed.
 - (iii) Where the auditor recommends the refusal or the termination of the Quality Mark, the Chambers may make representations to the Director, Quality Standards against the recommendation. In every case, the final decision is made by the Director, Quality Standards', although Chambers may apply for a review of the decision.
49. Where a **Critical Quality Concern** is raised at a pre or post Quality Mark audit and the recommendation is to pass subject to satisfactory corrective action) the Chambers may make representations to the Director, Quality Standards against the recording of the **Critical Quality Concern**.

4.11 Recurring Critical Quality Concerns

50. Where a **Critical Quality Concern** has been recorded against a sub-section of the Quality Mark (i.e. D1 – Equal Opportunities Policy) and, at a subsequent audit, the auditor records a further **Critical Quality Concern** within the same sub-section of the Quality Mark, they will endorse the Critical Quality Concern as “recurring”.
51. The auditor will recommend termination if a **Critical Quality Concern** is raised against the same sub-section as an outstanding recurring **Critical Quality Concern** (i.e. two **Critical Quality Concerns** have been raised within the same sub-section).

4.12 Quality Control

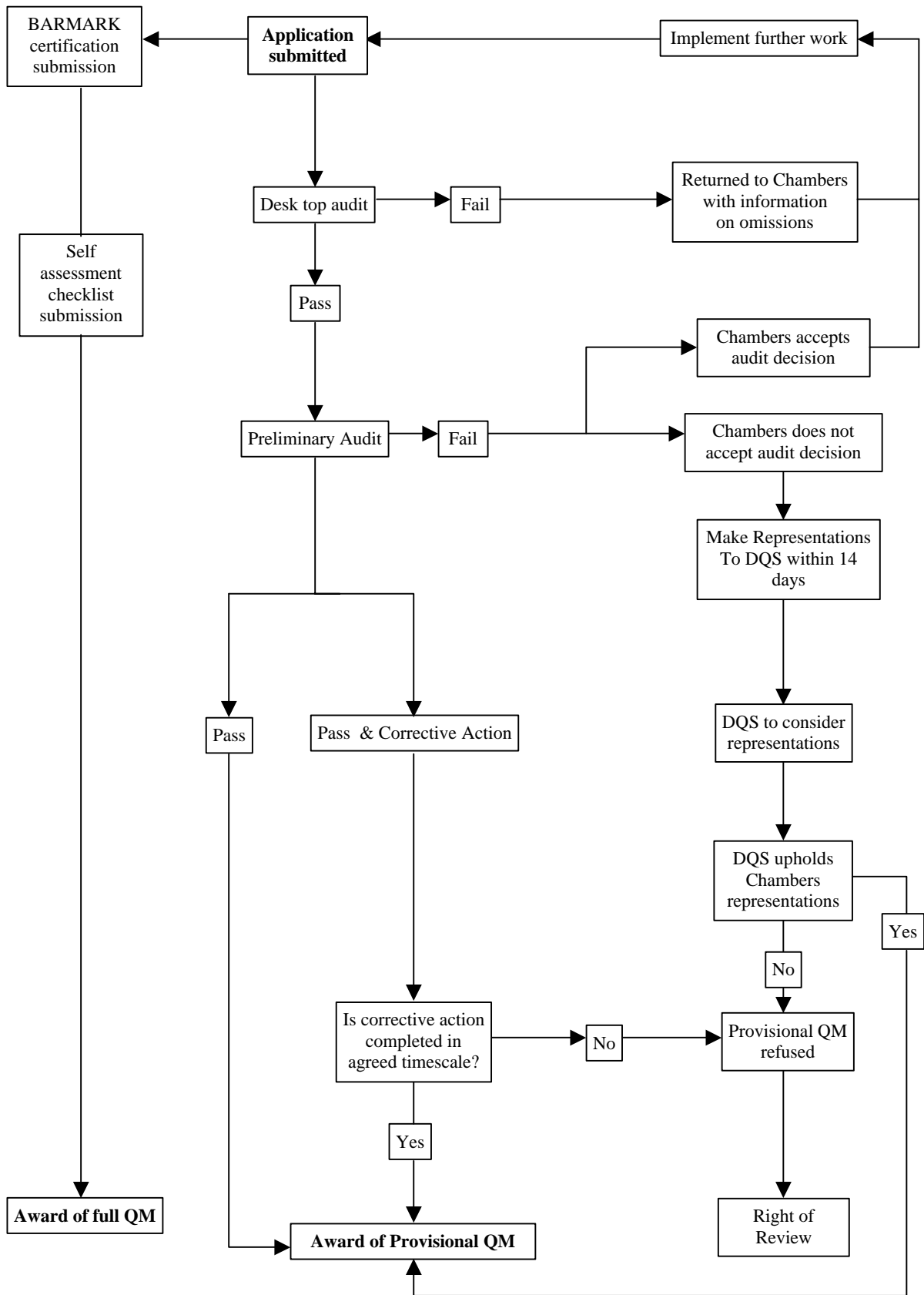
52. The LSC quality controls the audit process to ensure consistency in decision-making. The quality control data will be made available to Bar Council on request.

4.13 Quality Concerns Critical and General

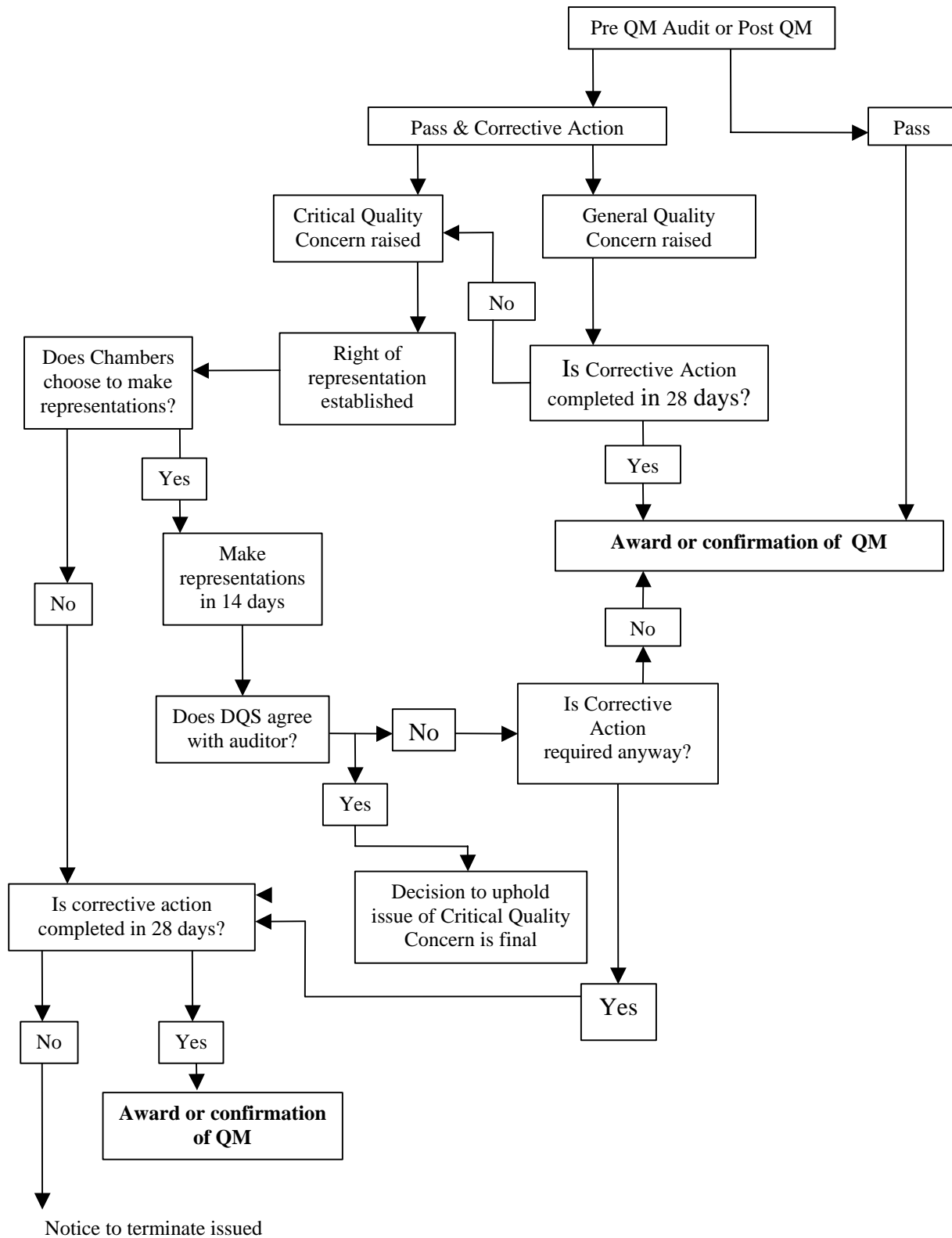
53. The following table details all the requirements in the Quality Mark and whether they are Critical or General (see above for definitions of Critical and General). Each requirement defined as Critical is marked as such in the main body of the standard.

Quality Mark for the Bar Requirement	Pre & Post Quality Mark Audit
A1	Critical
A2.1	General
A2.2	General
B1	Critical
B2	General
B3	General
C1	General
C2	General
C3	General
C4	Critical
C5	Critical
D1.1	Critical
D1.2	Critical
D2	General
D3	Critical
D4.1	Critical
D4.2	General
D5	Critical
E1.1	Critical
E1.2	Critical
F1.1	Critical
F1.2	Critical
F1.3	Critical
F1.4	Critical
F2.1	Critical
F2.2	General
G1	Critical
G2.1	General
G2.2	General
G2.3	General
G2.4	General

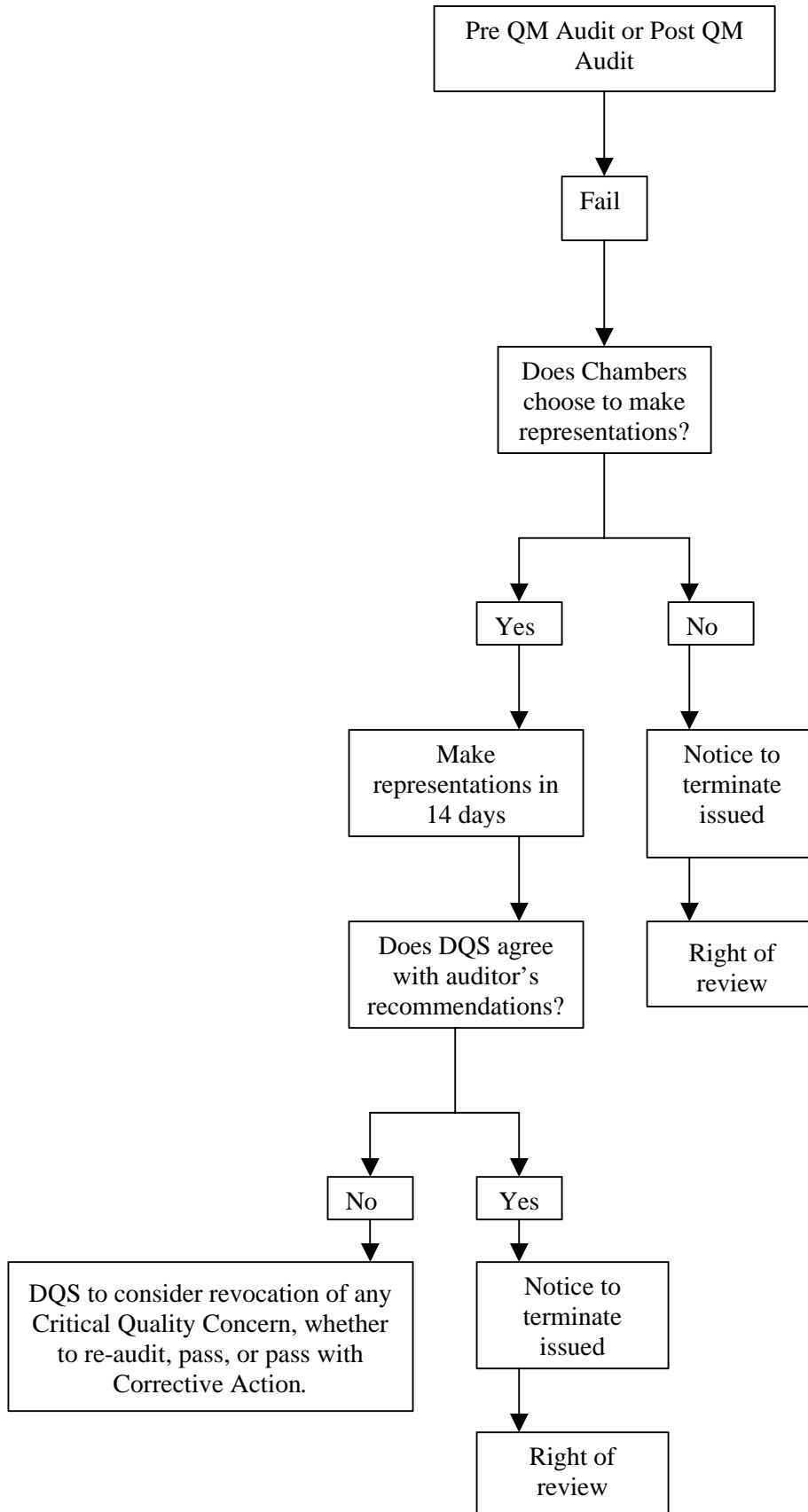
Flowchart 1 Summary of Application and Preliminary Audit Process



Flowchart 2
Summary of Pre Quality Mark and Post Quality Mark Audit Process
(where the result of the audit is to pass or pass with corrective action)



**Flowchart 3:
Summary of Pre Quality Mark and Post Quality Mark Audit Process
(where the result of the audit is to fail)**



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5. The Quality Mark Standard

Contents of the Quality Mark Requirements and Definitions

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A ACCESS TO SERVICE

The aim of the Legal Services Commission is to improve access to legal services.

Requirement A1	Equal Opportunities Policy
Purpose:	To ensure that Chambers complies with legal requirements relating to equal opportunities legislation, makes a commitment to equal opportunities practices and procedures, and is able to evidence that commitment.
Requirement A2	Business Planning
Purpose:	To ensure that Chambers is properly run and undertakes forward planning.

A1 Equal Opportunities Policy

Requirement:

A1 Non-discrimination in the Provision of Services

A1 A written non-discrimination policy that precludes discrimination in deciding whether to accept instructions from clients or in the provision of services.

The above requirement is CRITICAL.

Definition:

The definitions below qualify the requirement and are mandatory.

A1 Non-discrimination in the provision of services

- As a minimum the policy should make it clear that Chambers will not discriminate on grounds of race, colour, ethnic or national origin, nationality, citizenship, sex, sexual orientation, marital status, disability, age or religion in the provision of services.
- Members should comply with the Bar Council Equality Code and with any requests from the Bar Council in relation to equal opportunities.
- “Provision of services” should cover both the planning of services and the decision whether or not to accept instructions or offer advice. Members should be able to evidence compliance with the Bar Code of Conduct and the cab rank rule when accepting instructions from clients.
- Chambers should ensure that staff are aware of the obligation to ensure equality of opportunity and organise, plan, deliver, and monitor services appropriately.

A2 Business Planning

Requirement:

A2.1 Your Business Plan

A2.1 A current written business plan is available that sets out in detail for the current year, and in outline for the following two years, the key objectives for Chambers.

A2.2 Reviewing Your Business Plan

A2.2 The business plan is reviewed, at least every six months, and a record of that review is kept.

Definition:

The definitions below qualify the requirement and are mandatory.

A2.1 Your business plan

- The plan should be relevant to Chambers' aims and objectives and should include some detail about how each item is going to be achieved.
- For the plan to be current, it should include all the changes required as a result of the most recent review, plus details of any issue that is likely to have a significant impact on delivery of the planned service.
- Normally auditors would look for an outline plan for the next two years, but if Chambers are coming to the end of a business planning cycle, (e.g. a three year business planning cycle) auditors will not expect an outline plan for two years but Chambers will need to demonstrate the action being taken towards compiling the next three year plan.
- Chambers should be able to demonstrate that they have access to all of the following information and have considered it when developing their plan:
 - o Which services Chambers wishes to offer.
 - o Details of how Chambers delivers its services.
 - o Details of how Chambers intends to promote its services.
 - o How many people, with what types of skills (or responsibilities), and costing how much, are required to deliver the planned services.
 - o A finance plan and budget showing how Chambers will afford to deliver the planned business activities.
- Chambers' business plan should be available to the auditor, and a copy of the current plan or a summary of its key aims and objectives, should be available to all members of staff, as appropriate (see guidance).

A2.2 Reviewing your business plan

- Specific projects, action proposals, and finance and service targets should be reviewed (against actual performance) at least every six months.
- Records of review should be available to the auditor and Chambers should be able to demonstrate evidence of action taken (or action pending with a timetable) wherever changes to the plan have been identified.

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B SEAMLESS SERVICE

Where the particular service needed by the client cannot be provided, the client must be informed and directed to an alternative service provider, where available.

Requirement B1	Seamless Service
Purpose:	To ensure, as far as possible, that clients are not disadvantaged if a service cannot be provided by a member of Chambers.
Requirement B2	Direct Contact from Lay Clients
Purpose:	To ensure that potential lay clients are directed to the relevant service providers.
Requirement B3	Referral List
Purpose:	To ensure, as far as possible, that clients are not disadvantaged if a service cannot be provided by a member of Chambers.

B1 Seamless Service

Requirement:

B1 Procedure for Return of a Brief or Reassignment of Instructions

B1 Chambers should ensure that a record is made when a brief is returned or instructions are reassigned.

The above requirement is CRITICAL.

Definition:

The definitions below qualify the requirement and are mandatory.

B1 Procedure for the return of a brief or reassignment of instructions

- The record should include the following:
 - o The date of return/reassignment.
 - o The person to whom the brief was returned/reassigned.
 - o The fact that the return/reassignment was discussed and agreed with the instructing professional client. Where the professional client was not available for discussion, there should be a note to this effect.
- If referring counsel does not consider it necessary to discuss the case with the counsel taking over the case, counsel should be able to justify this with regard to the needs of the client and the urgency of the case.
- The procedure should provide for Chambers to discuss with the professional client, where relevant, the cost implications of returning a brief or reassigning instructions. If there is likely to be an increase in costs, the instructing professional client should either be informed in writing or a note of the conversation made on the case record.
- The procedure should specify that returns/reassignments should be carried out as soon as practicable.
- Chambers undertaking Crown Prosecution Service (CPS) work should comply with CPS requirements to record the reasons for making any returns.

B2 Direct Contact from Lay Clients

Requirement:

B2 Direct Contact from Potential Lay Clients

B2 Chambers should have procedures to respond to direct contact from potential lay clients.

Definition:

The definitions below qualify the requirement and are mandatory.

B2 Direct contact from potential lay clients

- When Chambers or members are contacted directly by a potential lay client, the client should, where appropriate, be referred to the CLS/CDS Directory, website, or Call Centre (0845 6081122).

B3 Referral List

Requirement:

B3 Referral List

B3 Chambers should have a procedure to ensure that members from Chambers with the Quality Mark are considered when returning a brief or reassigning instructions.

Definition:

The definitions below qualify the requirement and are mandatory.

B3 Referral List

- Chambers should make available to all appropriate staff an up-to-date referral list of Quality Marked Chambers.

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C RUNNING THE ORGANISATION

There must be appropriate structures and procedures which ensure effective management of the organisation and its resources.

Requirement C1	Financial Control
Purpose:	To ensure that Chambers manage financial matters effectively.
Requirement C2	Management Structure
Purpose:	To ensure that Chambers define a basic management structure, with policies and responsibilities documented and objectives agreed.
Requirement C3	Legal Reference Materials
Purpose:	To ensure that members maintain up-to-date knowledge in all areas of their practice.
Requirement C4	Status Enquiries
Purpose:	To ensure that members of Chambers have complied with the appropriate professional standards required by the Bar Council.
Requirement C5	Professional Indemnity Insurance
Purpose:	To ensure that members have professional indemnity insurance and are authorised to practice.

C1 Financial Control

Requirement:

C1 Financial Control

C1 Chambers should be able to provide documentary evidence of control over all financial matters, and identify the person responsible for ensuring the exercise of financial control.

Definition:

The definitions below qualify the requirement and are mandatory.

C1 Financial Control

- Compliance with this requirement should be evidenced by the following:
 - o Agreed statements of financial policies, procedures and authorities.
 - o Written cash and capital budgets.
 - o Record of bank statement reconciliation.
 - o Monthly statements of income and expenditure.
 - o Up-to-date withdrawal of credit scheme information.
 - o Annual profit & loss accounts (where appropriate).
 - o Annual balance sheets (where appropriate).
 - o Analysis and monitoring of aged debtor lists.
 - o Evidence of an annual audit of accounts.
 - o Records of reviews of finances and procedures.
 - o Income and work-billed analysis.
 - o Systems for collecting contributions.

C2 Management Structure

Requirement:

C2 Management Structure

C2 There should be a written procedure that makes it clear where responsibility lies for each area within Chambers.

Definition:

The definitions below qualify the requirement and are mandatory.

C2 Management Structure

- The structure should show where responsibility lies for the following areas:
 - o Professional administration (professional indemnity insurance, practising certificates, VAT, Health and Safety, employer's liability insurance, Data Protection Act).
 - o Pupillage.
 - o Management and training of staff.
 - o Recruitment of new members.
 - o Monitoring and implementation of equal opportunities.
 - o Financial matters.
 - o Library provision.
 - o Provision of information to the Bar Council.
 - o Business planning and strategy.

C3 Legal Reference Materials

Requirement:

C3 Legal Reference Materials

C3 Members should be able to demonstrate that they have ready access to adequate legal reference materials.

Definition:

The definitions below qualify the requirement and are mandatory.

C3 Legal Reference Materials

- Legal Reference Materials should be:
 - o Relevant to each individual area of practice within Chambers.
 - o Regularly updated.
- Auditors would expect members to have access to up-to-date copies of the following:
 - o Legal reference materials suitable to areas of practice.
 - o Code of Conduct of the Bar.
 - o *Bar News*.
 - o Bar Practice Management Guidelines and Standards.
 - o Pupillage Handbook.
 - o CPS standard instructions booklet (for Chambers undertaking CPS work).

C4 Status Enquiries

Requirement:

C4 Status Enquiries

C4 Chambers should be able to provide the LSC, upon request, with a list of all tenants and pupils in their second six months, for the purpose of undertaking status enquiries.

The above requirement is CRITICAL.

Definition:

The definitions below qualify the requirement and are mandatory.

C4 Status Enquiries

- Every member of Chambers applying for the Quality Mark should, as part of the application, authorise the LSC to obtain information about his or her status from the appropriate bodies during the Quality Mark application process.
- Every member of Chambers should, as part of the application, irrevocably authorise the LSC to make further status enquiries about them from the appropriate bodies.

C5 Professional Indemnity

Requirement:

C5 Professional Indemnity

C5 Chambers should be able to provide a list, showing that all members have appropriate professional indemnity insurance and practising certificates.

The above requirement is CRITICAL.

Definition:

The definitions below qualify the requirement and are mandatory.

C5 Professional Indemnity

- Chambers should be able to provide a list confirming that all members have up to date practising certificates and professional indemnity cover.

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D PEOPLE MANAGEMENT

Chambers must ensure that members, pupils and staff possess or develop the skills and knowledge required to meet the clients' needs.

Requirement D1	Equal Opportunities Policy/Fair Treatment of Staff
Purpose:	To ensure that members, pupils and staff are not discriminated against, directly or indirectly, or victimised because of race, colour, ethnic or national origin, nationality, citizenship, sex, sexual orientation, marital status, disability, age or religion.
Requirement D2	Induction Procedure
Purpose:	To ensure that all those working within Chambers are aware of the organisation and operation of systems, and have a clear understanding of the duties and conduct expected of them.
Requirement D3	Assessment and Feedback
Purpose:	To ensure that Chambers monitor the quality of service given by members, pupils and staff, and are able to ensure that improvements are made where necessary.
Requirement D4	Training
Purpose:	To ensure that Chambers maximises its full potential, attention needs to be given to members', pupils' and staff knowledge and skills.
Requirement D5	Competence
Purpose:	To ensure an acceptable standard of representation for clients.

D1 Equal Opportunities Policy/Fair Treatment of Staff

Requirements:

D1.1 Equal Opportunities Policy

D1.1 There should be a written equal opportunities policy in effective operation that precludes discrimination in the selection, treatment and conduct of members, pupils and staff.

The above requirement is CRITICAL.

D1.2 Open Recruitment Process

D1.2 There should be an open recruitment process in operation that evaluates the skills, knowledge and experience of those applying for posts.

The above requirement is CRITICAL.

Definitions:

The definitions below qualify the requirement and are mandatory.

D1.1 Equal opportunities policy

- Chambers' policy should make it clear that they will not discriminate on grounds of race, colour, ethnic or national origin, nationality, citizenship, sex, sexual orientation, marital status, disability, age, or religion, in the selection and treatment of members, pupils and staff.
- The policy should cover the conduct of members, pupils and staff towards one another and should outline the action to be taken in the event of a breach.

D1.2 Open Recruitment process

- For the recruitment process to be open there should be evidence of the following:
 - o Written contracts of employment for staff.
 - o Individual, written job descriptions for staff.
 - o Documented disciplinary and grievance procedures.
 - o Notes of selection interviews, which should be kept for a minimum of 12 months.
 - o Evidence of compliance with the requirements of the Bar Code of Conduct, the Equality Code for the Bar, and the Pupillage Guidelines in the selection of pupils.

D2 Induction Procedure

Requirement:

D2 Induction Procedure

D2 Chambers should have a written procedure to provide induction for all new members, pupils and staff.

Definition:

The definitions below qualify the requirement and are mandatory.

D2 Induction Procedure

- The above requirement should be evidenced by the following written induction records which demonstrate that the following have been covered and the date they were discussed
 - o Chambers' quality procedures and how to access them (see requirement G2).
 - o Chambers' management structure and where the individual fits within this (see requirement C2).

D3 Assessment and Feedback

Requirement:

D3 Assessment of Staff and Pupils and Feedback on Members

D3 There should be a written procedure for carrying out appropriate assessment on all staff and pupils and feedback on members at least annually.

The above requirement is CRITICAL.

Definition:

The definitions below qualify the requirement and are mandatory.

D3 Assessment of Staff and Pupils and Feedback on Members

- The procedure should ensure the following:

Staff

- An annual appraisal is carried out for each member of staff, and the outcome is recorded and agreed in writing with the job-holder.

Pupils

- All pupils should be assessed in accordance with Bar Council requirements as detailed in the Pupillage Checklist.

Members

- A review (at least annually) of information received from client feedback forms and complaints records. This should be carried out by or under the control of the Head of Chambers. There should be a record of the action taken as a result of significant negative feedback.

D4 Training

Requirement:

D4.1 Training

- D4.1** Chambers should have a written procedure to ensure the following:
- Training requirements of all staff are identified and reviewed at least annually.
 - Training for pupils is reviewed at appropriate intervals.
 - Members review their own training requirements at least annually.

The above requirement is CRITICAL.

D4.2 Training Records

- D4.2** Training records should be available for all staff, pupils and members.

Definitions:

The definitions below qualify the requirement and are mandatory.

D4.1 Training

- The procedure should ensure the following:
 - Training and development plans for staff are reviewed annually.
 - Details of all staff training are noted on staff training/development records.
 - Pupils' training is planned and reviewed in accordance with Bar Council requirements. As part of this there must be a procedure to ensure fair distribution of work.

D4.2 Training Records

- All members should comply with Bar Council requirements for continuing professional development, and keep appropriate records.

D5 Competence

Requirement:

D5 Competence

D5 All members and pupils should be competent to do the work that they accept.

The above requirement is CRITICAL.

Definitions:

The definitions below qualify the requirement and are mandatory.

D5 Competence

- When considering whether they are competent to accept instructions, members are expected to comply with the Bar Code of Conduct.

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E RUNNING THE SERVICE

There must be appropriate processes and procedures, which ensure an effective and efficient service to clients.

Requirement E1	Effective and Efficient Service to Clients
Purpose:	To ensure that information can be accessed quickly and easily, and that clients receive a consistent service, it is important that records are managed in an organised way that maintains client confidentiality.

E1 Effective and Efficient Service to Clients

Requirements:

E1.1 Receipt of Briefs and Instructions

E1.1 Chambers must have a documented procedure for the receipt of briefs and instructions and their assignment to members.

The above requirement is CRITICAL.

E1.2 Casework Management

E1.2 Chambers must have a documented procedure for casework management that is effective in:

- Identifying potential conflicts of interest.
- Maintaining an effective diary system.
- Monitoring the progress of work.
- Ensuring secure storage of briefs and other papers.
- Ensuring that opinions written on behalf of clients in receipt of public funding should comply with the framework as set out in Annex A.

The above requirement is CRITICAL.

Definitions:

The definitions below qualify the requirement and are mandatory.

E1.1 Receipt of Briefs and Instructions

- All briefs and instructions (including any received by e-mail) should be registered and date stamped on arrival, with confirmation of Chambers' standard turnaround time. The timescale for acceptance of the brief by the individual member should not be greater than five working days, except with the consent of the professional client. Briefs should be noted with the date agreed for action, or such action should be noted. Details of both professional and lay clients should be recorded.
- Briefs should be submitted to, and examined by, members within specified timescales.
- If briefs/instructions are received by e-mail, there should be clear arrangements for the use of e-mail to ensure that mailboxes are accessed regularly, confidentiality of information is preserved and regard is given to the laws concerning data protection. Where members do not have their own e-mail facilities and clerks receive e-mails centrally, the procedure should ensure that professional clients are informed of this. Anti-virus systems should be reviewed regularly. All members should be registered under the Data Protection Act, notification requirements of which can be found at www.homeoffice.gov.uk
- If Chambers has a computer system, the procedure should ensure the maintenance of daily backups of computer records and their storage in a secure location offsite.

E1.2 Casework Management**Conflict of Interest**

- The procedure should set out in detail how to deal with specific instances that may occur, and identify who is responsible for carrying out the procedure.

Diary Systems

- The procedure should ensure that diaries are managed in such a way that potential clashes of professional commitments are identified and avoided where possible.
- Chambers should identify key dates and ensure that these are monitored through the diary system.

Monitoring the progress of work

- There should be a procedure for ensuring that work is completed within agreed timescales.

Storage of Briefs

- The procedure should specify how briefs are to be stored and returned to the client in a manner that ensures client confidentiality. The procedure should also specify how sensitive material would be stored, accessed, handled and returned.

Framework of opinions

- Opinions should be written in a way that enables the LSC to take quick and accurate decisions on applications for legal aid.

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F MEETING CLIENTS' NEEDS

Chambers and individual Members should ensure that the needs, concerns and interests of Clients are met.

Requirement F1	Service to Professional Clients
Purpose:	To ensure that professional clients using a Quality Marked provider can rely on receiving a consistent standard of service appropriate to their needs.
Requirement F2	Client Confidentiality and Privacy
Purpose:	To maintain the confidence of clients, services should be provided in a private and confidential manner.

F1 Service to Professional Clients

Requirements:

F1.1 On Receipt of Instructions

- F1.1** On receipt of instructions, the professional client should be informed in writing of the following:
- The basis upon which fees will be charged.
 - The timescale within which the member expects to complete work.

The above requirement is CRITICAL.

F1.2 Recording of Significant Communications

- F1.2** There should be a written procedure stating that significant communications with professional clients should be recorded.

The above requirement is CRITICAL.

F1.3 Informing Professional Clients of the Outcome of the Hearing

- F1.3** Professional clients should be informed of the outcome of the hearing where the client is not present and there is no client representative in attendance.

The above requirement is CRITICAL.

F1.4 Record of Work

- F1.4** Chambers should maintain a system to ensure that there is a record of work carried out, to support the fees charged.

The above requirement is CRITICAL.

Definitions:

The definitions below qualify the requirement and are mandatory.

F1.1 On receipt of instructions

- On receipt of instructions, members should be able to indicate the basis on which the fees will be charged and the timescale for carrying out the work.
- Where it is not possible to provide the professional client with this information, such information that is available should be provided. Chambers should be able to justify (to the client and to the satisfaction of the auditor) the interval for providing final confirmation.
- If the case is one which attracts a pre-determined fee, confirmation should be provided that the member will be acting within that fee.

F1.2 Recording of significant communications

- Examples of significant communications are:
 - o Changes in law or procedure which will have an impact on the conduct of the case.
 - o Potential conflicts of interest.
 - o Significant developments at court where no professional client's representative is present.
 - o Any factors liable to cause delay, and the reasons for them.

F1.3 Informing professional clients of the outcome of the hearing

- Professional clients should either be informed in writing of the outcome of the hearing, or a note can be made of the conversation between a member and a client. There should be a clear endorsement by members on the back sheet or a piece of paper sent back where there is no back sheet.

F1.4 Record of work

- Chambers should be able to provide, if requested by the professional client, justification for the fees charged and be able to provide a breakdown of specific activities carried out during the case and of the fees charged for each activity.

F2 Client Confidentiality and Privacy

Requirements:

F2.1 Client Confidentiality

F2.1 Chambers should have a written procedure to ensure client confidentiality.

The above requirement is CRITICAL.

F2.2 Privacy

F2.2 When meeting with clients, every effort should be made to ensure privacy.

Definitions:

The definitions below qualify the requirement and are mandatory.

F2.1 Client confidentiality

- The procedure should ensure the following:
 - o Client information is kept in a manner which ensures confidentiality, subject to any exceptions detailed in the Bar Code of Conduct.
 - o When members from the same set are instructed in the same case on behalf of different parties, the Professional Standards Committee guidelines on the maintenance of client confidentiality should be taken into account.
 - o When dealing with lay clients, members should ensure that they have regard to the provisions in the Bar Code of Conduct concerning conflict between lay clients and intermediaries, and the provisions requiring them to inform lay clients if it is considered that the professional client has not acted in their best interests.

F2.2 Privacy

- When acting for the CPS, members should follow the Farquharson guidelines on the “Role and Responsibilities of the Prosecution Advocate” relating to the treatment of victims and witnesses.

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G COMMITMENT TO QUALITY

All Quality Marked providers are committed to improving the quality of their service.

Requirement G1	Complaints Procedure
Purpose:	To ensure that clients know how to make a complaint and how they can expect that complaint to be dealt with.
Requirement G2	Continuous Improvement
Purpose:	To ensure that quality assurance systems are developed, reviewed and improved as appropriate.

G1 Complaints Procedure

Requirement:

G1 Complaints Procedure

G1 There should be a written procedure for identifying and dealing with complaints from clients.

The above requirement is CRITICAL.

Definitions:

The definitions below qualify the requirement and are mandatory.

G1 Complaints procedure

- The procedure should ensure the following:
 - o The professional client is aware of how to make a complaint, to whom to complain and who has overall responsibility for the complaints procedure.
 - o Central records are maintained of all complaints, with details of how they were resolved
 - o The progress of every complaint is monitored.
 - o Professional clients are made aware of the LSC complaints procedure, upon request.
 - o Details of the Bar Council complaints procedure are available.
 - o For work with the CPS, there is evidence that the CPS complaints procedure is followed.

G2 Continuous Improvement

Requirements:

G2.1 Overseeing Quality Procedures

G2.1 Chambers should have a named individual or committee responsible for overseeing the quality assurance procedures.

G2.2 Quality Assurance Statement

G2.2 There should be a written quality assurance statement in place, detailing quality assurance procedures for Chambers.

G2.3 Review of Quality Procedures

G2.3 Chambers should review all quality procedures at least annually. Any revisions should be noted along with the date that the change came into effect.

G2.4 Client Feedback

G2.4 Feedback from clients should be reviewed at least annually and any trends identified.

Definitions:

The definitions below qualify the requirement and are mandatory.

G2.1 Overseeing quality procedures

- The individual (or a representative from the committee) should have a full understanding of the operation of all the quality procedures and should be available at audit.

G2.2 Quality assurance statement

- The quality assurance statement should normally be contained within a quality manual, and should be accessible to all staff.

G2.3 Review of quality procedures

- The review should cover all procedures including clerking procedures. All staff should be involved in this review and any revisions should be noted along with the date that the change came into effect.

G2.4 Client feedback

- The client feedback review should be carried out by or under the control of the Head of Chambers. Whilst it is not necessary for the Head of Chambers personally to review each form received, if the review of feedback forms is delegated, the Head of Chambers should be made aware of the results, and be able to provide a summary of any trends revealed.
- The type of feedback form used should make it possible to obtain feedback on the standards of service provided by an individual member in the following:
 - o Communication and client care
 - o Advocacy
 - o Preparation
 - o Confidentiality
 - o Complaints handling (where relevant)
 - o Dealing with returns/reassignments.
- A sample of forms should be available for review at audit.
- If forms are sent out on a sampling basis, the method chosen should ensure that all members are covered at least annually.
- There should be evidence to show the action taken in the event of significant negative feedback (see requirement D3). If action has not been taken this should be justified to the auditor.

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A1 Equal Opportunities Policy**A1 Non-discrimination in the provision of services****Guidance:**

- Members are encouraged to comply with any request by the Crown Prosecution Service (CPS) or Criminal Defence Service (CDS) for the provision of information in relation to equal opportunities.
- Chambers may find it helpful to carry out a review of services and premises with regard to minority and disabled users as a way of evidencing compliance with this requirement. This review could also be used as part of the review of the business planning process (see requirement A2).
- Note that this policy is only part of the equal opportunities framework required by the Quality Mark; a single document may cover the requirements in sections A and D.
- Note that Chambers may adopt an existing model policy (e.g. the Bar Council policy), but may need to include additional grounds in order to meet the Quality Mark minimum requirements.

A2 business planning

A2.1 Your business plan

Guidance:

- To be effective the business plan should be relevant to the objectives of Chambers and to clients. An effective plan does not need to be extensively detailed. Members should work together with staff to identify what key action and activities will be necessary for Chambers in the coming 12 months.
- There should be evidence that consideration has been given to the need for marketing, and how membership of the CLS/CDS will influence it. This might include marketing to other members of the CLS/CDS, and the use of the CLS/CDS logo. To comply with this standard, it is not necessary to provide a detailed marketing strategy; however, such a strategy forms a valuable part of good business planning.
- It should be kept up to date with current events, and be able to be easily understood by staff at all levels, although it is not necessary for the full plan to be available as long as staff have access to the areas which are relevant to their work.
- Chambers may want to consider disaster recovery and crisis contingency planning as part of the business planning process.

A2.2 Reviewing your business plan

Guidance:

- When reviewing the plan, Chambers may wish to take account of the results of the review of quality assurance systems undertaken in compliance with requirements A1 and G2.3, the review of services and premises with regard to minority and disabled users. An example of a review of resources and skills would be a review of recruitment and pupillage.
- A financial plan should demonstrate how each identified activity will be funded, i.e. through income or borrowing and/or capital investment. It will also explain how income will be received and on what areas of expenditure income will be utilised.
- The financial plan should be reviewed alongside the business plan itself, since variance may indicate the need for further review.

B1 Seamless Service**B1 Procedure for return of a brief or reassignment of instructions****Guidance:**

- In meeting the requirement, Chambers should bear in mind the following:
 - o Clerks may not arrange to return or reassign a brief whether within or outside Chambers other than in accordance with the instructions of the professional client except where it is impossible to obtain such instructions in time. Where requested to do so by the professional client, the clerks should provide every assistance to find counsel from another Quality Marked Chambers.
 - o The Legal Services Commission (LSC) understands that returns and reassignments are not always within the control of Chambers and therefore recommends, for best practice, that Chambers keep records of the reasons why briefs are returned/reassigned (in the circumstances defined above). The following is a non-exhaustive list of suggested reasons:
 - Problems with Court Listing.
 - Previous case exceeded time estimate.
 - Other case commitment.
 - Case arranged despite member's prior commitment.
 - Professional embarrassment.
 - Member performing judicial duty.
 - Ill-health/personal hardship.

B2 Direct Contact from Lay Clients

B2 Direct contact from potential Lay Clients

Guidance:

- As a minimum, referring the client to the Call Centre number will be sufficient (0845 6081122).
- However, it may not always be appropriate to refer to the CLS/CDS Directory or Call Centre number, for example if a potential lay client is seeking information on commercial litigation. Members and staff should use their judgement in such circumstances.

B3 Referral List**B3 Referral list****Guidance:**

- The LSC will supply a list of Chambers holding the Quality Mark, and provide updates to the list. This list will not be available to lay clients.
- Referral to members from Chambers with the Quality Mark in accordance with the instructions of the professional client will ensure, as far as possible, that clients receive the same standard of service, should return or reassignment be necessary. It is accepted that, until the Quality Mark becomes widely accepted, it may not always be possible to find counsel of the particular expertise and skill in a Chambers with a Quality Mark.
- Copies of the CLS/CDS Directory are available from the LSC, or details can be found on www.justask.org.uk.
- If alternative Counsel from a Chambers without the Quality Mark is to be found, consideration should be given to the relevance and extent of Counsel's experience. A note should be made of the reason for the choice of Counsel.

C1 Financial Control

C1 Financial control

Guidance:

- When complying with this requirement, reference should be made to Section 4 of the Bar Practice Management Guidelines and Standards (see glossary).
- The purpose of this requirement is to ensure that Chambers has sound financial control which is based upon accurate and pertinent information. Auditors will wish to see documentary evidence that the updated information is being produced and considered. The auditor will not undertake any analysis or scrutiny of the specific financial detail.
- It is not necessary for the annual audit of accounts to be carried out by an external accountant, but there should be evidence that accounts and other financial records are subject to internal audit and control.

C2 Management Structure**C2 Management structure****Guidance:**

- The best evidence of the requirement would be a written constitution, but it may also be evidenced by the following:
 - o A family tree/organisation chart.
 - o A written summary of decision-making procedures.
 - o A written memorandum of understanding.
- There is no requirement for a specific post-holder for each area listed in C2.

C3 Legal Reference Materials

C3 Legal reference materials

Guidance:

- Legal reference materials can include access to the Internet and CD-Roms.

C4 Status Enquiries**C4 Status enquiries****Guidance:**

- Please note:
 - o Findings of guilt will be made available to the LSC for all Barristers in independent practice, and pupils in their second six months.
 - o The LSC will continue to take into account information that is disclosed during the status enquiry process, when determining whether an organisation is suitable to receive or hold the Quality Mark.

D1 Equal Opportunities Policy / Fair Treatment of Staff

D1.1 Equal opportunities policy

Guidance:

- Members should comply with the Equality Code for the Bar.
- Chambers may wish to appoint an Equal Opportunities Officer to take responsibility for this area, although there is no requirement for a specific post holder (see guidance to section C2). Responsibility may be evidenced by an Equal Opportunities Committee, but if Chambers choose this option, there should be at least one member of the committee available at the time of the Quality Mark audit.
- As part of the monitoring process Chambers may wish to carry out a review of procedures and promotional material to encourage a positive approach to minority groups. The review of the business and marketing plan should take account of reviews of the Equal Opportunities procedures if appropriate.
- Consideration may be given to training from the Bar Council, or any suitable provider, on Equal Opportunities issues, and this may be recorded in training plans and records.
- Chambers may adopt the existing Bar Council model policy, adapted, if necessary, to meet Quality Mark requirements.

D1.2 Open recruitment process

Guidance:

- It is not necessary to formally advertise vacancies for staff in Chambers, but the criteria used for selection should be clear.
- Chambers should refer to the Bar Council Code of Conduct when dealing with unsolicited applications for tenancies.

D2 Induction Procedure**D2 Induction procedure****Guidance:**

- Induction records can take the form of completed checklists appropriate to each role within Chambers. In addition to the areas listed above, checklists may include Health and Safety, welfare matters, Chambers aims and objectives and recorded meetings with different members and staff as appropriate. The checklist may also include initial objectives to be achieved within three or six months of joining. Induction records can be kept on a personal file or in a central file.
- Consideration may be given to creating a mentoring scheme for junior tenants and staff and induction could cover the operation of this scheme.
- While induction is not necessary for existing members and staff, if new quality procedures are introduced, part of the induction checklist may be used to cover the introduction of existing staff to new procedures (see requirements detailed at G2).

D3 Assessment and Feedback

D3 Assessment of staff and pupils and feedback on Members

Guidance:

- An essential part of ensuring quality of service to clients is obtaining feedback on that service. It is recognised that many of the systems used for obtaining information about the service provided by members are, by necessity, informal, but information from client feedback and complaints should be used as a minimum. Auditors will be looking to see that Chambers have considered the overall trend of information that has been received when reviewing client feedback forms and that there is evidence that consideration has been given to what action may be necessary, in the event of significant negative feedback.
- Feedback will be considered “significant” if consistent information is received that indicates that members are not following Quality Mark procedures, specifically those which the LSC considers to be critical for client care (see page 17, paragraph 4.7, “Quality Concern(s)”), or if there is evidence that there may have been a breach of the Bar Council Code of Conduct (see section G2.4).
- Chambers may also want to consider regular reviews of the development of an individual member’s practice.
- The LSC will provide a standard client feedback form to allow Chambers to gather feedback on individual members, but Chambers may use its own form. The LSC will encourage professional clients to provide constructive feedback (see section G).
- Any negative information contained within the feedback form should not be considered to be a complaint unless the client specifically requests that the matter be dealt with as a complaint (when requirement G1 applies). Members may wish to record their response to any negative feedback.
- The Practice Manager or Senior Clerk shall be deemed to be a suitable delegate of the Head of Chambers, and care should be taken that information is not shown to anyone in Chambers who may have another interest in the case.
- Head of Chambers can be any member who is Head of Chambers or any member who is responsible, in whole or part, for the administration of Chambers. The obligations (of a Head of Chambers) apply to the following members of Chambers:
 - a. Any Barrister who is head of Chambers.
 - b. Any Barrister who is responsible, in whole or in part, for the administration of Chambers.
 - c. If there is no one within (a) and (b) above, all the members of Chambers.

D4 Training

D4.1 Training

Guidance:

- It is usual practice to consider an individual's plan as part of their appraisal, but training and development opportunities for staff are likely to be identified throughout the year from different sources.

D5 Competence

D5 Competence

Guidance:

- Competence may be evidenced by the following, which is not an exhaustive list:
 - o Whether the case is in an area that the member has worked in before.
 - o Whether the member has attended any seminars or training in this area.
 - o In the case of pupils, whether the pupil has observed their pupil supervisor or other members of Chambers in a similar case.
- Although it is not necessary for members and pupils to keep a record of numbers and types of cases, LSC auditors will be looking to have a general discussion with members and pupils as to how they decide whether or not to accept instructions.

E1 Effective and Efficient Service to Clients**E1.1 Receipt of briefs and instructions****Guidance:**

- Standard turnaround times need only be given where the Chambers have not been used by the professional client before, or the standard time has changed since the last occasion the professional client used the Chambers.
- Chambers may record what details they wish, but auditors will look to see that the name and address of the professional client has been recorded as a minimum.

E1.2 Casework management**Guidance:**

- Where e-mails are received into a central mailbox, in order to ensure the confidentiality of instructions from professional clients generally and, in particular, where members are acting for more than one party in a case, consideration should be given to either a password system for receipt of e-mails, or for some other method of ensuring confidentiality in these circumstances.
- All data sent by Chambers should, as far as possible, be free from viruses.

F1 Service to Professional Clients

- F1.1** **On receipt of instructions**
& **&**
F1.2 **Recording of significant communications**

Guidance:

- It is important for the professional client relationship that communication is maintained. It is accepted that there is not always time in some cases to communicate in writing. In these circumstances, Chambers should be able to provide evidence of recorded notes.

F1.4 Record of work

Guidance:

- Auditors will not be assessing cases to ascertain if the time spent was reasonable or not.

F2 Client Confidentiality and Privacy

F2 Client confidentiality

Guidance:

- Auditors will look for evidence of understanding and consideration of the Professional Standards Committee guidelines and of procedures to ensure compliance, e.g. through the provision of separate clerking facilities and separate fax lines, and the use of code names, etc, where appropriate.

G1 Complaints Procedure

G1 Complaints procedure

Guidance:

- A complaint is defined as “any expression of dissatisfaction”. This does not mean minor negative comments, but where the client has indicated dissatisfaction with the service provided this should be recorded as a complaint. Negative feedback contained within the client feedback form should not be dealt with as a complaint, except where the professional client specifically requests that it should.
- Chambers may find it valuable to record minor negative comments for information, whether they are treated as complaints or not.

G2 Continuous Improvement

G2.2 Quality assurance statement

Guidance:

- A Chambers quality manual may include the following:
 - o Details of all quality procedures.
 - o Relevant forms.
 - o Standard letters.
 - o Client confidentiality guidelines.
 - o Policy for managing clashes of professional commitments.
 - o Sickness reporting.
 - o Discipline and grievance procedures.

G2.3 Review of quality procedures

Guidance:

- The outcome of the review of quality procedures could form part of the review of the business plan and service strategy, and Chambers may want to give consideration to carrying out this review more frequently than once per year.

G2 Continuous Improvement (continued)

G2.4 Client feedback

Guidance:

- Feedback from clients can enable service standards to be developed, and Chambers will be encouraged to review their performance and strategy in the light of the results of the analysis of feedback and complaints.
- Feedback forms do not need to be sent out in every case and it is suggested that Chambers use a sampling basis. However, it is important that all members are covered by the procedure during the course of a year, to enable feedback to be obtained on individuals.
- Completed forms received should be available for review at audit.
- If feedback is received that indicates that members have not followed Quality Mark procedures or have breached the Bar Code of Conduct, then there should be evidence that consideration has been given as to whether action is necessary. If there are other areas of significant negative feedback then the decision to take action is left to the discretion of Chambers, but auditors may ask Chambers to discuss the reasons for not taking action.

6. Representations

6.1 General

1. Representations to the Director, Quality Standards may be made where:
 - (a) After a preliminary audit, a recommendation is made not to grant a provisional Quality Mark (i.e. a refusal is recommended) (see section 4)
 - (b) After a pre Quality Mark audit, a recommendation is made to refuse the full Quality Mark and terminate the provisional Quality Mark (see section 4)
 - (c) After a post Quality Mark audit, a recommendation is made to terminate the Quality Mark (see section 4)
 - (d) After a pre Quality Mark or post Quality Mark audit, where the recommendation is to pass with corrective action and a Critical Quality Concern is issued by the auditor.
2. Representations to the Director, Quality Standards **must** be made in writing and **must** reach the SDG no more than **14 calendar days** following confirmation by the auditor of their recommendation (or issue of a Critical Quality Concern). Representations may be made on the following grounds:
 - (a) The audit was not correctly carried out.
 - (b) The auditor refused to accept a reasonable explanation as to why a Critical Quality Concern should have been disregarded or treated as a General Quality Concern, and therefore should not have had the effect of leading to the issue of a refusal, termination or Critical Quality Concern.
 - (c) Any other reasonable grounds.
3. Events occurring after an audit has taken place are not relevant to the findings at that audit. For example, if a procedure was found not to be in effective operation at the time of the audit, the fact that, afterwards, it was in effective operation, is not relevant to the audit findings.
4. Representations relating to events that have occurred after an audit has taken place are not, however, excluded. In some circumstances, they may be relevant to the Director's decision. However, in the absence of exceptional circumstances, representations solely that, if a fresh audit were carried out, the organisation would be found to be fully compliant, are unlikely to affect the decision made. If the Director, Quality Standards finds that an organisation has not passed an audit, their decision will normally be to refuse or terminate the (provisional) Quality Mark.

6.2 Decision

5. As part of the decision-making process, the Director, Quality Standards will consider the auditor's recommendation, the basis for the Quality Concern and any representations that have been received. In determining whether to accept the recommendation or to uphold the Quality Concern, the Director, Quality

Standards will take into account the evidence available for consideration by the auditor at audit and determine whether, on the basis of that evidence, the auditor's actions were reasonable.

6. Before making a decision, the Director, Quality Standards may also seek further information from the organisation, the auditor, or any appropriate member of the LSC's staff. If they do so, they will, where appropriate, give the organisation an opportunity to comment on it before making a decision.
7. The Director, Quality Standards will confirm their decision, in writing, with reasons. Where representations have been made, the reasons will refer to them and the decision will normally be made within 14 days of receipt of the representations.
8. The Director, Quality Standards may or may not accept the auditor's recommendation, or may make a different decision. When the Director, Quality Standards considers it is appropriate, they will issue a Notice to Terminate.
9. The Director's decision either to confirm or overturn the auditor's issue of a Critical Quality Concern is final and does not give rise to the opportunity for further appeal or any right of review.

6.3 Notice to Terminate

10. A Notice to Terminate may be in any written form but will specify what is being terminated. If the decision is to refuse a provisional Quality Mark, the notice is likely to be in the form of a letter stating the refusal and stating that the application for a provisional Quality Mark has been terminated.
11. If the Director, Quality Standards considers, at any stage, that there is a Quality Concern, which is such that there is a risk to clients or to public funds, they may immediately issue a Notice to Terminate which takes immediate effect.
12. If the organisation applies for internal review (or any other appeal or review procedure that applies) within any relevant time periods. The effect of the Notice to Terminate may be suspended while the appeal or review is underway.

Annex A: Framework for Opinions

Status of these Guidelines

1. These Guidelines are prepared by the Legal Services Commission. They are intended as statements of good practice to be followed when opinions are prepared on the merits of applications or certificates issued under the Funding Code. As statements of good practice these Guidelines should not be too rigidly applied. An opinion will, however, be rejected if it does not contain the information necessary for the Commission to make its decision under the Code.
2. These Guidelines have been agreed by the Bar Council for incorporation as an annex to the Code of Conduct of the Bar of England and Wales.

Scope

3. These Guidelines apply to legal opinions sent to the Legal Services Commission for the purpose of decisions made in individual cases under the Funding Code. The Guidelines are most relevant to decisions made under certificates or contracts covering Legal Representation or Support Funding, but also may be relevant to other levels of service.
4. The Guidelines apply to counsel and to solicitors with higher rights of audience who are instructed to give an independent opinion on the merits of a case. The term “counsel” in the Guidelines therefore includes a solicitor with higher rights of audience.
5. The Guidelines do not apply directly to solicitors giving a report to the regional office in a case which they are conducting or proposing to conduct. Such a report may be shorter and more informal than an opinion on the merits, but these Guidelines should still be borne in mind by solicitors when such reports are prepared. Preliminary Considerations
6. All opinions must be prepared in accordance with the Funding Code and having regard to the Funding Code guidance prepared by the Commission. This guidance is set out in the Commission’s Manual, and on the Commission’s website at www.legalservices.gov.uk. Every person preparing an opinion must have access to and consult the Guidance as necessary.
7. When counsel is instructed to provide an opinion in writing, counsel should first consider whether it is necessary to have a conference, for example to enable counsel to assess the reliability of the client’s evidence in a case where that evidence is likely to be contested. Where counsel considers that a conference is necessary and would be cost-effective, the costs of such a conference may be covered by the certificate provided it is within any overall cost limitation on the certificate and is justified as reasonable on assessment at the end of the case. In the case of a high-cost case contract, any conference must be justified within the agreed case plan for the action.

Contents of Opinions

4. The primary purpose of an opinion is to provide the Commission with the information and legal opinions necessary to apply all relevant Funding Code criteria, rather than to provide a personal opinion on what the funding decision should be.
5. Each opinion should state at the outset:
 - a) The *level of the service* under which the opinion is given and if appropriate, the level of service being applied for.
 - b) The *case category* into which the proceedings fall, giving reasons if there is likely to be an issue as to which case category is appropriate.
6. In every opinion counsel should identify any potentially *excluded* work in the case, i.e. aspects of the case which may fall within the excluded categories in paragraph 1 of Schedule 2 of the Access to Justice Act 1999. Where excluded work arises counsel should specify any of the Lord Chancellor's directions which may bring the case back into scope.
7. It is not necessary for an opinion to discuss separately every criterion relevant to the decision. For example, it is not usually necessary for counsel to refer to the standard criteria in section 4 of the Code unless, in the particular circumstances of the case, one or more of these criteria is likely to be material to the Commission's decision. Unless otherwise instructed, an opinion should always cover the following:
 - a) *Prospects of success* (except for special Children Act proceedings or other proceedings which do not have a prospect of success criterion). The opinion should specify what constitutes a successful outcome for the client, having regard to guidance, and must specify with reasons the reasons the prospects in one of the six categories provided for in the Code. Where prospects are "borderline", the issues of fact, law or expert evidence which give rise to that assessment must be identified. Where prospects of success are "unclear" the necessary work to clarify the prospects of success must be identified.
 - b) *Cost benefit* (save for those cases which do not have a cost benefit criterion). The opinion must identify the benefit to the client from the proceedings and, for quantifiable claims, provide a figure for "likely damages" as defined in the Code. See paragraph 14 below as to estimates of "likely costs".
 - c) Where the application is for *Investigative Help* to be granted or continued, the opinion must deal with matters relevant to criteria 5.6.2 (the need for investigation) and 5.6.4 (prospects after investigation). The opinion should explain why there are reasonable grounds for believing that when the investigative work has been carried out the claim will be strong enough, in terms of prospects of success and costs benefit, to satisfy the relevant criteria for full representation.
 - d) Where the issue is whether funding should be *withdrawn* on the merits, the opinion should cover matters relevant to applying criteria 14.2 to 14.4,

taking into account the interests of the client, the interests of the Community Legal Service Fund and relevant guidance.

8. An opinion on merits should:
 - a) Where *factual issues* are involved (a) set out in sufficient detail, (although not necessarily at great length), the rival factual versions to enable the Commission to assess their relative strengths, and (b) express a clear opinion as to the likelihood of the applicant's version being accepted by a court and why.
 - b) Where *legal issues* or difficulties of law are involved (a) summarise those issues or difficulties in sufficient detail to enable the Commission to come to a view about them without looking outside the opinion, and (b) express a clear view as to the likelihood of the applicant's case on the law being accepted by a court and why.
 - c) Draw attention to (a) any *lack or incompleteness of material* which might bear on the reliability or otherwise of the applicant's version, and (b) any other factor which could – whether now or in the future – materially affect the assessment of the outcome of the case.
9. Where appropriate, an opinion should suggest or formulate for the Commission any limitation or condition, whether as to the scope of work that should be covered, or as to costs, which ought to be imposed on the grant of funding in order to safeguard the Fund. In complex cases, including cases proceeding on the multi-track, the opinion should specify any future point in the proceedings at which it is likely to be sensible to re-assess the merits.

Information from Other Sources

10. There will often be information relevant to a merits decision which is not readily available to counsel. Where such information is not included in counsel's instructions, the opinion should specify the information which should be provided by the instructing solicitors, usually in the form of a covering letter to accompany counsel's opinion.
11. The following issues should usually be dealt with by instructing solicitors:
 - a) Estimates of likely costs. This includes estimates of whether costs incurred to date, likely future costs to disposal, or future costs to trial. Such estimates will sometimes best be made in the light of counsel's opinion as to prospects of success and the future conduct of the case. Assessments of likely costs may be relevant not just to any cost benefit criteria, but also to other criteria such as the thresholds for support funding, or the affordability of a high cost case.
 - b) Assessments of whether a case is suitable for a Conditional Fee Agreement and whether affordable insurance is available, in cases which are being considered under the General Funding Code.

Specific Issues

12. Where it is suggested that a case has a *significant wider public interest* counsel's opinion should:
 - a) Identify the nature of the benefits which the case might bring to persons other than the client.
 - b) Identify the group or section of the public who might benefit from the case, if possible giving at least a rough estimate of likely numbers.
 - c) Where people may benefit directly from a test case, explain the individual issues which other clients would need to establish in order to succeed with their claims.
 - d) Where the public interest of the case derives from establishing an important point of law, set out that legal issue clearly and explain the likelihood of the court resolving the issue one way or another for the benefit of other cases.

13. Where it is suggested that a judicial review or claim against a public authority raises *significant human rights issues*, the opinion should identify the specific articles of the Convention which may have been breached by the public body, and the importance of those issues to the client and the general public.

14. Where it is suggested that a case has *overwhelming importance to the client* as this is defined by the Code, the nature of the importance to the client must be identified in the opinion, having regard to the Commission's guidance on this issue.

15. In cases involving more than two parties, counsel should consider carefully whether *separate representation* for each client is justified (criterion 5.4.5). This is particularly important in many family cases and in appeals where the points at issue in the appeal may not require separate representation from every party to the proceedings at first instance. Counsel should consider whether the arguments on which his or her client relies will be put forward on behalf of another party whose interests in the proceedings are substantially the same. Counsel should report to the Commission with proposals for minimising representation by solicitors and counsel.

16. In high cost cases in which the Commission will be considering whether the action is *affordable* in the light of available resources counsel's opinion should address those aspects of the case which, in accordance with the Commission's guidance, are relevant to the affordability decision. It will not be possible or appropriate for counsel to consider the question of the resources available to the Commission, or the reasonableness of funding the individual case as against other cases, as these are matters solely for the Commission.

Continuing Duties to the Fund

17. A Barrister is under a specific duty to comply with the provisions of the Access to Justice Act 1999 and any regulations or code in effect under that Act (paragraph 304 of the Bar Code of Conduct). Since these duties are directed at ensuring that public funding is granted and continued only in justifiable cases, it follows that

counsel acting under a funding certificate is under a duty to bring to the attention of the Commission any matter which might affect the client's entitlement to funding, or the terms of his or her certificate, at whatever stage of the proceedings that might occur.

18. Counsel and any other legal representative acting under a certificate or contract are also subject to the specific obligations set out in Rule C44 of the Code Procedures. This includes a general obligation to inform the Regional Director of new information or a change of circumstances which has come to light which may affect the terms or continuation of the certificate.
19. Where counsel is under an obligation to draw matters to the attention of the Commission, he or she may do so by drawing matters to the attention of his or her instructing solicitors and asking that they be passed on to the Commission, or counsel may contact the Commission directly if that is appropriate in the particular circumstances of the case.

Appendix 1: Logo Guidelines

1. If you are an Applicant, unless we grant you prior written permission, you **must** not in any way imply that you are, or will be, Quality Marked (either full or provisional). If we do grant you prior written permission, you **must** comply with any conditions that we specify.
2. You may publicise and promote your status as Quality Marked (full or provisional), in any reasonable manner consistent with the spirit and intention of the Quality Mark for the Bar Agreement.
3. You **must** not say or do anything that is, or is likely to be, misleading to clients or potential clients regarding your status as Quality Marked (full or provisional), or to advertise or associate with any other services that could in any way imply that they are endorsed, associated or otherwise part of the Community Legal Service.
4. If we consider that you are publicising or promoting in a manner that is not consistent with the spirit and intention of the Quality Mark Agreement, or may be misleading to clients (or potential clients), we may direct you to cease such publicity or promotion. If we do direct you to cease such publicity or promotion, you **must** comply with the direction without delay.
5. You acknowledge that we own all rights in any Promotional Items.
6. You **must** not alter or amend any Promotional Items without our prior written permission.
7. You acknowledge that any Promotional Items that are owned by us, and designated as such, at all times remain in our ownership.
8. If you choose to use Promotional Items then you must use them in accordance with any Guidelines that we issue about them.
9. Further guidelines on the use of the CLS and Criminal Defence Service (CDS) logos (permitted colour, size, etc.) are provided as part of this guidance. Guidelines are issued by the LSC (in the form of a “logo pack”) upon grant of the Quality Mark.
10. The CDS logo has been developed to indicate a specialism in criminal defence work. It is important that only Chambers which are specialists in criminal defence work display the CDS logo. A Chambers which displays the CDS logo is expected to:
 - Have a member of Chambers who regularly advises on aspects of criminal defence work;
 - Have a member who regularly represents defendants in the Crown Court.

Definitions

“Promotional Items” means any logos, certificates, display materials, information, literature and other items supplied, or approved in writing, by us for use in connection with the Quality Mark.

Appendix 2: Quality Mark for the Bar Agreement

1. If we agree that you meet the requirements for the Quality Mark for the Bar, we will grant your application and send you a Quality Mark for the Bar Certificate. If any of the information in, or to be included in, your certificate changes, we will issue a replacement.
2. If we refuse your application you may, within 21 days of the date of the refusal notice, submit an appeal in accordance with our published appeal procedure.
3. Provided you continue to hold a current certificate, this agreement will stay in force. You may end it by giving us one month's notice. You may not assign it or otherwise dispose of it or any rights under it. When this agreement ends, all rights and obligations under it end, unless otherwise stated. This agreement does not create any right enforceable by any person not a party to it.
4. Your certificate may include additional agreement terms. While you hold a current certificate you:
 - **must** continue to meet the requirements for the Quality Mark for the Bar and must demonstrate this when required to by us
 - **must** allow us, on no less than 14 days' notice, to attend your premises to verify your compliance with this agreement, by audit or otherwise
 - **must** not say or do anything misleading about your status under this agreement
 - **must** provide us with information about you for possible entry in the Community Legal Services (CLS) Directory
 - **must** tell us if any information recorded in your certificate changes, and of any material changes to the information you gave us in your application
 - **must** tell us of any change in your legal identity, of any sale or transfer of your business, of any change in your ownership or control, if any insolvency proceedings are commenced against you and if any criminal proceedings are commenced against you or any of your personnel in connection with your operations
 - may use, in accordance with guidance, the Quality Mark (Bar) and items bearing it, issued by us in connection with the Community Legal Service, or the Criminal Defence Service.
5. We will give you six months' notice of any changes to the terms of this agreement or to the requirements for the Quality Mark for the Bar standard. We will not make any major changes without first consulting the Bar Council, the Lord Chancellor's Department, the Crown Prosecution Service and any bodies whose names we have published as consultees.
6. You **must** provide us with any information you hold that we are required by law to obtain from you. We will keep all confidential information concerning you, or

your clients', affairs strictly confidential unless we are required by law to disclose it or are required to disclose it to Parliament. This obligation continues after this agreement has ended.

7. You acknowledge that you are not an agent or partner of ours and must not act as if you were.
8. You **must** indemnify us without delay in respect of all liabilities we incur as a result of: (a) injury, loss or damage to our personnel or their property while they are on your premises for the purposes of this agreement and which is either caused by your negligence or in respect of which you are entitled to indemnity under a policy of insurance; and (b) any claim by a third party in respect of any act or default committed by, or for, you unless the act or default was ours.
9. You **must** not try to bribe any of our personnel or any person who may perform services for, or who is associated with, us or the Community Legal Service.
10. Any of our functions under this agreement may be performed by a body authorised by us.
11. If you breach this agreement, if you gave us false information in your application, if insolvency proceedings are commenced against you or if any criminal proceedings or professional disciplinary proceedings are commenced against you or any of your personnel in connection with your operations, we may suspend or cancel your certificate on one month's notice.
12. If we give you notice suspending or cancelling your certificate you may, within 21 days of the date of the notice, submit an appeal in accordance with our published appeal procedure.
13. After all relevant appeal procedures have been exhausted, any remaining disputes between you and us that arise after the grant of your application shall be decided under the Arbitration Act 1996. The arbitration shall be in accordance with the Legal Services Commission Arbitration Scheme run by the Chartered Institute of Arbitrators and shall be final and binding.
14. Provided, if applicable, we have reasonably operated the appeal procedure, where we have acted in good faith but are in breach of this agreement, we shall not be under any liability to you under this agreement or otherwise for any loss or damage. "Loss or damage" includes any loss of anticipated profits as well as any consequential or economic loss or damage, arising from the breach.

Glossary

Term	Definition
Access	Physical access, i.e. disability ramps, lifts, door widths, opening hours etc; and access for clients with disabilities e.g. facilities for the deaf and those with impaired sight.
Aged Debt	Monies owed to members of chambers from professional clients from cases that have not been recovered.
Bar	The Bar of England and Wales.
Bar Council	The General Council of the Bar which is the Bar's governing body.
BARMARK	The Quality Standard of the Bar Council.
Bar Mutual Indemnity Fund Limited (BMIF)	An insurance company which provides Barristers with their professional indemnity insurance.
Bar News	The Bar Council's Newsletter for Barristers.
Bar Practice Management Guidelines and Standards	Guidelines and standards issued by the Bar Council for Chambers.
Barrister	An individual who has been called to the Bar and who is a member of Chambers, a Pupil, a Squatter or a Sole Practitioner.
Brief	Instructions to a Barrister to appear as an advocate before a Court and to advise.
Cab Rank Rule	The rule that stipulates that a Barrister who supplies advocacy services must not withhold those services on the grounds that the nature of the case is objectionable to the Barrister or to any section of the public or that the conduct, opinions or beliefs of the prospective client are unacceptable to the Barrister or to any section of the public or on any ground relating to the source of financial support which may properly be given to the prospective client for the proceedings in question (for example from the CLS or CDS).
Certification	The award of a document to confirm that a Chambers has achieved the required quality standard.
Chambers	All the Barristers who practise from a set of Chambers.

Term	Definition
Clients	A generic term encompassing both professional and lay clients (see below).
Clients; Professional	A solicitor or other professional person by whom a Barrister is instructed.
Clients; Lay	The person on whose behalf a Barrister is instructed.
Code of Conduct for the Bar	Rules and duties, issued by the Bar Council with which all Barristers must comply.
Community Legal Service (CLS)	The CLS is a framework in England and Wales, which enables Quality Marked suppliers of information and advice to work together in CLS partnerships to provide information and help in civil and family law matters.
Community Legal Service Fund	The resources allocated to pay for services for eligible clients whose case currently falls within the scope of CLS funding.
Community Legal Service Provider	An organisation which is a CLS member or a CLS partner (or both). (CLS partner – any organisation operating formally within a CLSP.)
CPD	Continuing Professional Development
Criminal Defence Service (CDS)	The organisation responsible for the administration and funding of criminal legal advice and representation.
CPS	Crown Prosecution Service
CPS Standard Instructions Booklet	A booklet issued by the Crown Prosecution Service, detailing how instructions should be issued to counsel.
Desktop Audit	A paper-based assessment of the documented quality procedures of a service provider.
Focus	Quarterly newsletter produced by the Legal Services Commission for members of the CLS.
Instructions	Instructions or directions in whatever form (including a Brief) given to a Barrister to supply legal services.

Term	Definition
Key Personnel	Heads of Chambers, Senior Clerks, Practice Managers or any members of chambers responsible in whole or part for the administration of Chambers, who are responsible for making key decisions.
Legal Aid	This is now known as CLS funding (for civil cases) and CDS funding (for criminal cases).
Legal Aid Franchise Quality Assurance Standard (LAFQAS)	The quality standard used by the Legal Aid Board in the franchising of providers. This has been enhanced and has become the Specialist level of the Quality Mark.
Legal Services Commission (LSC)	The LSC replaced the Legal Aid Board in April 2000.
LSC Funding Code	The funding code is outlined in the Legal Services Commission Manual Volume 3.
LCD	Lord Chancellor's Department.
Members (of Chambers)	The group of Barristers who are the tenants in a Chambers.
Pupillage	Pupils are in Pupillage for a period of twelve months.
Pupils	Trainee barristers who are undergoing training for twelve months.
Procedure	A procedure is a written, documented process, which describes the steps which must be followed by all staff.
Process	A process is the procedure operating in practice.
Professional Standards Committee	The committee of the Bar Council responsible for formulation and implementation of policy in respect of standards of practice and rules of conduct for the Bar.
Quality Concern	Where an auditor has not been able to identify sufficient evidence to satisfy the requirements, this will lead to a Quality Concern being recorded. Quality Concerns are defined as either General or Critical depending on which requirement the Quality Concern is raised against (see page 16).
Quality Framework	The Quality Mark Standard, its requirements, definitions and guidance.
Quality Manual	A Chambers' collection of written procedures for delivering a quality service.
Quality Mark	The set of quality standards that apply to CLS and CDS providers.

Term	Definition
Quality Requirements	The specific obligations for a Chambers to meet the requirements for each standard.
Reassignment	When the barrister originally briefed or instructed cannot undertake the commitment the papers are reassigned to another member of the Bar. This is usually referred to as a Return.
Recognised Association	An association which is recognised by the Legal Services Commission as a governing body, e.g. Bar Council, Law Society.
Return	See reassignment.
Squatters	Barristers who have finished their Pupillage but do not have a tenancy, and carry on practising for a limited period from a set of Chambers.
Staff	Employees of Chambers, such as clerks, and administrative staff.
Tenants	Barristers who have successfully completed their Pupillage and have gained a tenancy with a set of Chambers.

List of Regional Offices

Regional Office	Address	Postcode	DX Number	Telephone Number
London Regional Office	29–37 Red Lion Street LONDON	WC1R 4PP	DX LDE 170 CHANCERY LANE	020 7759 1500
South Eastern Regional Office	3 rd –4 th Floor Invicta House Trafalgar Place BRIGHTON	BN1 4FR	DX 2752 BRIGHTON 1	0127 387 8800
Southern Regional Office	80 King's Road READING	RG1 4LT	DX 4050 READING	0118 955 8600
South West Regional Office	33–35 Queens Square BRISTOL	BS1 4LU	DX 7852 BRISTOL	0117 302 3000
Wales Regional Office	Marland House Central Square CARDIFF	CF1 1PF	DX 33006 CARDIFF	0292 064 7100
West Midlands Regional Office	City Centre Podium 5 Hill Street BIRMINGHAM	B5 4UD	DX 13041 BIRMINGHAM	0121 665 4700
North West Regional Office	2 nd Floor Elisabeth House 16 St Peter Square MANCHESTER	M2 3DA	DX 14343 MANCHESTER 22	0161 244 5000
North East Regional Office	Eagle Star House Fenkle Street NEWCASTLE	NE1 5RU	DX 61005 NEWCASTLE	0191 224 5800
Yorkshire & Humberside Regional Office	City House New Station Road LEEDS	LS1 4JS	DX 12068 LEEDS	0113 390 7300
East Midlands Regional Office	Fothergill House 16 King Street NOTTINGHAM	NG1 2AS	DX MDX 10035 NOTTINGHAM	0115 908 4200
East Regional Office	62–68 Hills Road CAMBRIDGE	CB2 1LA	DX 5803 CAMBRIDGE	0122 341 7800
Merseyside Regional Office	Cavern Walks 8 Matthew Street LIVERPOOL	L2 6RE	DX 14208 LIVERPOOL	0151 242 5200