



**The Bar Standards Board's Enforcement Powers and Procedures**

**Proposed revisions to the Enforcement Regulations: Part 5 of the BSB Handbook**

**Second Consultation**

**May 2026**

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**List of additional annexes (accessed as separate documents):**

[Annex 2 – new Enforcement Regulations](#)

[Annex 3 – Tracker of changes to the regulations](#)

[Annex 4 – Draft guidance on access to tribunal documents by non-parties](#)

[Annex 5 – Equality Impacts Assessments](#)

## Foreword

1. Our ambition is to be recognised as a high-performing regulator that improves culture in the profession, supporting and improving culture in the profession.<sup>1</sup>
2. To support our ambition, over the past two years we have been working on a programme of reform comprising a large number of transformative projects and initiatives. Work is ongoing to introduce changes aimed at providing the structural underpinning of our enforcement functions to stabilise, strengthen and improve performance across our frontline services and support longer-term success.
3. This consultation follows an earlier public consultation, which ran between July and October 2025 and sought views on proposed ‘in principle’ changes to our Enforcement Regulations in Part 5 of the BSB Handbook. Those changes represent a significant redesign of our end-to-end enforcement process and the regulations that underpin it.
4. This second consultation, which focuses on the revised draft of our enforcement regulations, is equally as important and spans a very wide number of issues. It also takes forward the adoption of certain recommendations of the Harman Review. These revised regulations are informed by the need to secure improved fairness, transparency, efficiency and effectiveness in our enforcement system. Importantly, the changes will also help us (and BTAS) to expedite cases, leading to swifter outcomes, including those involving allegations of bullying and harassment. Crucially, they will also provide an assurance of anonymity and support to witnesses involved in cases of a sexual nature.
5. I would like to thank colleagues and other internal and external stakeholders for the hard work and support they have provided to develop the revised regulations and the further proposals set out in this consultation paper.
6. The consultation paper is necessarily very detailed, as it covers the full set of enforcement regulations. We appreciate that you may not want to comment on all of the regulations and proposals, and are happy for you to provide feedback only on those matters on which you have an interest. Details on how to respond are set out below.
7. We encourage you to read the full document, and to respond as fully as you can, so that our new enforcement regulations are drafted and delivered to

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<sup>1</sup> For further information, please refer to the [BSB's business plan for 2026-27](#).

ensure both the profession and the public can realise the benefits of our new 'end-to-end' enforcement process.

**Steven Haines**  
**Interim Director General**

### **Responding to this consultation**

1. This consultation is open for comment from **1 May 2026 to 17 July 2026**. You do not need to wait until the deadline to respond. Responses can be submitted online by using our [online survey platform](#) or emailed to [enforcementregs@barstandardsboard.org.uk](mailto:enforcementregs@barstandardsboard.org.uk).
2. If you would like to access this consultation document in an alternative format, such as larger print or audio, please contact us at: [enforcementregs@barstandardsboard.org.uk](mailto:enforcementregs@barstandardsboard.org.uk) or by telephone at 020 7611 1444.
3. If you would like to provide your feedback via another method than a written response, please contact us using the same contact details above.
4. We may publish your response and so please let us know if you do not want to be named as a respondent to this consultation or would like your response to be anonymised.

## Executive Summary

1. This consultation is open for comment from **1 May 2026 to 17 July 2026**.
2. It follows an earlier ‘in principle’ consultation by the BSB, which was held between July 2025 and October 2025, on its Enforcement Powers and Procedures (*Proposed revisions to the Enforcement Regulations: Part 5 of the [BSB Handbook](#)*).
3. Following the consultation, the BSB published a [short feedback statement](#) published on 1 December 2025 and a [full feedback statement](#) on 2 April 2026 on the outcome of the first consultation. These feedback statements confirm the policy decisions that have been taken by the BSB in relation to the proposals already consulted on, as part of the first consultation.
4. We have now produced new draft regulations which will replace Parts 5A to D of the BSB Handbook. The new regulations seek to implement the policy decisions now made and to streamline the regulations to ensure they are better organised, simplified, use plain English and reflect best regulatory practice.
5. The overall objective of this work is to develop a set of regulations that help improve the efficiency and timeliness of the end-to-end enforcement process, while maintaining quality, respecting the balance of obligations between the BSB and respondent barristers, and enhancing public trust and confidence in the profession and in our regulation of it.
6. This second consultation seeks views from stakeholders on the draft regulations and a small number of additional proposals for change. We welcome feedback on both the new proposals and the overall drafting of the regulations.

### *Summary of additional proposals*

7. While redrafting the regulations, we have developed a number of additional proposals, which represent a change in policy from the current approach (and were not included in the first consultation, although have been added in the redraft). We provide a short summary of these proposals below. Further detail on each of these proposals can be found by clicking on the internal document link and navigating to the relevant proposal section.
  - a. [Proposal 1: Transitional provisions](#). We propose that the new regulations will come into force on or shortly after 1 February 2027. We will implement a ‘clean break’ so that the new regulations will apply to all cases from that date, including those already in train.

- b. [Proposal 2: Publication to occur in all cases, including dismissals.](#) We propose to extend publication of Disciplinary Tribunal hearing outcomes so that outcomes are published in all cases, including where the charges against a barrister have been dismissed.
- c. [Proposal 3: The power to refer and impose immediate interim orders and interim orders on the basis of conditions only.](#) We propose to extend the power to refer for and impose an immediate and interim order so that such orders may be imposed on the basis of interim conditions, rather than interim suspension or disqualification only.
- d. [Proposal 4: Undertakings subject to review rather than appeal.](#) We plan to extend the right to request a review of an interim order so that it also applies in respect of undertakings accepted and imposed by an interim panel. However, there will be no right of appeal against such undertakings as they are agreed.
- e. [Proposal 5: Right of appeal in health matters.](#) We plan to extend to the BSB the right to appeal the decision of a Health Panel, which is currently only afforded to the barrister. We also propose that the regulations be amended to require that both parties be notified of the appeal hearing, as well as the right to be heard and be notified of the outcome.

#### *General drafting approach and issues for feedback*

- 8. The second element of the consultation focuses on the drafting of the new regulations themselves. In redrafting the regulations, we have been guided by key drafting principles, including:
  - streamlining the revised regulations to ensure they are better organised, simplified and use plain English;
  - improving the structure and organisation by creating four distinct new sets of regulations which are capable of standing alone;
  - clarifying the powers and delegated powers for key decision-makers; and
  - changing and updating the terminology.
- 9. Most of the changes reflect policy decisions already consulted on and confirmed in the Consultation Feedback Statement, together with consequential amendments. Given the length and complexity of the regulations, we have highlighted the most significant and thematic changes, rather than setting out every amendment, to help readers engage with the consultation and provide informed feedback.
- 10. The purpose of this part of the consultation is twofold:

- a. to seek views on whether the revised regulations properly give effect to our previously agreed policy positions; and
  - b. whether they support our overall objectives of improving the fairness, transparency, efficiency and effectiveness of the end-to-end enforcement process.
11. We note that, while we welcome all feedback, this consultation is not intended to revisit the underlying policy decisions already made. Instead, it is focussed on whether the revised regulations accurately and effectively implement those decisions.

## Introduction

### About the BSB

12. We are the independent regulator of barristers and other specialised legal services businesses, and their employees and managers, in England and Wales. While the General Council of the Bar (Bar Council) is the approved regulator under the Legal Services Act 2007, the Bar Council has delegated its regulatory functions to the independent Bar Standards Board (BSB).
13. We play a key role, acting in the public interest, authorising barristers and assessing their suitability to practise, setting the standards by which they operate and acting where appropriate when they fail to meet those standards. We also actively promote an effective market for barristers' services, using our regulatory tools to improve competition, access to affordable services and high-quality justice for consumers.
14. We have a duty under the Legal Services Act 2007 to act, so far as is reasonably practicable, in a way which is compatible with the regulatory objectives when discharging our regulatory functions. The regulatory objectives are:
  - protecting and promoting the public interest;
  - supporting the constitutional principle of the rule of law;
  - improving access to justice;
  - protecting and promoting the interests of consumers;
  - promoting competition;
  - encouraging an independent, strong, diverse and effective legal profession;
  - increasing public understanding of the citizen's legal rights and duties;
  - promoting and maintaining adherence to the 'professional principles'. These are that barristers should act with independence and integrity, maintain proper standards of work, act in the best interests of their clients, comply with their duty to the court to act with independence in the interests of justice, and keep the affairs of their clients confidential; and
  - promoting the prevention and detection of economic crime.
15. We also have a duty under the Legal Services Act 2007 to have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted to where action is needed. Changes to our regulatory arrangements, including rule changes, need to be approved by the Legal Services Board.

## Previous consultations

16. Between July 2025 and October 2025, the BSB held a public consultation on its Enforcement Powers and Procedures (Proposed revisions to the Enforcement Regulations: Part 5 of the BSB Handbook). The document can be found [here](#).
17. In that consultation we sought feedback on proposed principles for change to our Enforcement Regulations in Part 5 of the BSB Handbook, which underpin the BSB's enforcement function. It covered a broad range of issues of wider principle and procedure, with changes varying from substantial alterations to our current process and practice, to those seeking to codify or clarify existing practice.
18. In a [short feedback statement](#) published on 1 December 2025, we set out our analysis and response to one proposal which we indicated would be adopted sooner than the publication of revised enforcement regulations in early 2027. On 2 April 2026, we published a [full feedback statement](#) on the outcome of the first consultation (the Consultation Feedback Statement). That statement summarises the responses received, our analysis of the responses and conclusions, and the next steps.
19. The majority of the changes reflected in the revised regulations are intended to facilitate an end-to-end enforcement process which is more efficient, effective and timely, whilst maintaining fairness and transparency and delivering the right outcomes. They also support the regulatory objectives, in particular of protecting and promoting the public interest. We worked with external advisers on the drafting of the revised regulations and are grateful for their expertise and support.
20. This work aligns with the regulatory objectives of:
  - protecting and promoting the public interest;
  - protecting and promoting the interests of consumers; and
  - promoting and maintaining adherence to the “professional principles”.

## About this consultation

21. This consultation represents the next phase of our Enforcement Regulations Project, part of a wider review and redesign of our end-to-end enforcement process. This work was informed by recommendations from an independent review of our enforcement system by Fieldfisher LLP (*the Enforcement Review*). It sits within the BSB's broader program to modernise its regulatory functions, ensuring they are quick, effective and responsive with no loss of quality.

22. Following the launch of our Reform Programme in 2024, we have worked closely with the LSB to deliver improvements across our operations. While the programme has evolved, the proposals in this consultation are informed by its key aims, of improving fairness, transparency, efficiency and effectiveness in our enforcement system. These aims remain especially important in respect of our voluntary undertakings to the LSB, not least commitments to improve the timeliness and efficiency of the enforcement process.
23. In this consultation we are seeking feedback on the proposed changes to the entire set of Enforcement Regulations, set out in Parts 5A to D of the BSB Handbook and inviting views on some specific proposals for change and supporting guidance. The revised regulations are provided as a new set of regulations that will replace Parts 5 A-D of the current BSB Handbook.
24. While these new regulations set out the core enforcement framework, they will be supported by new separate guidance documents that will be published alongside them ahead of commencement. We intend this new approach to benefit decision-makers, the profession and the public.
25. Subject to the outcome of this consultation, we intend to implement the revised regulations to take effect in early 2027.
26. Your responses to this consultation will help inform and shape the final, revised regulations. However, this consultation will not revisit the underlying policy decisions made following the first consultation. Our intention is to assess whether the new regulations, as set out in Annex 2, give proper effect to the decisions already taken and communicated in the Consultation Feedback Statement, whilst being accessible, fair and empowering decision-makers to progress cases efficiently and effectively. We do welcome general feedback on the structure, flow and clarity of the regulations, in line with the overall aims of the project.

### **The Harman Review**

27. During the first consultation period, the Independent Review of Bullying, Harassment and Sexual Harassment at the Bar (the Harman Review), was published [here](#). We welcomed the Harman Review and recognised the concerns it raised in relation to the BSB's investigation and enforcement policies and processes.
28. As set out in the Consultation Feedback Statement, we fully accept the need to ensure that complainants of bullying and harassment will be sensitively supported through a robust, transparent and efficient enforcement process, without unnecessary delay, in order to encourage reports to the BSB.

29. Our consultation included a suite of reforms designed to improve the efficiency and effectiveness of our enforcement process, which we believe will address or complement several of the recommendations arising from the Harman Review. The changes we indicated would be taken forward following the Consultation Feedback Statement have now been incorporated into the revised regulations.
30. In addition to those changes, we have developed and are seeking feedback on a further proposal arising from the Harman Review. It will give effect to the recommendation that written reports must include findings in relation to all charges, setting out reasons as to why charges were proved or not proved (Recommendation 22). We discuss this proposal further below and invite feedback (see [Proposal 2: Publication to occur in all cases, including dismissals](#)).
31. We continue to consider the Harman Review's findings and recommendations as part of our wider organisational work, including engagement with stakeholders, such as the Bar Council, BTAS and the profession, to support improvements to the end-to-end enforcement process and in the culture of the Bar.

## **Additional proposals for change**

32. This section sets out details of specific policy issues on which we are seeking feedback. These have been developed while revising the regulations. Each issue includes a short summary, an overview of the background and current approach and the proposed change, including how it is reflected in the proposed drafting of the revised regulations.

### ***Proposal 1: Transitional provisions***

#### *Summary of the proposal*

33. To update the commencement and transitional provisions so that the revised regulations will come into force on or shortly after 1 February 2027. We will implement a 'clean break' so that the revised regulations will apply to all cases from that date, including those already in train.

#### *Background and current approach*

34. The current commencement and transitional provisions provide that, from the date the new regulations came into effect, those regulations apply to all cases, including cases referred prior to that date. Any procedural step taken before the regulations came into force is treated as having been taken under the equivalent provisions of the new regulations (unless decided otherwise).
35. However, there will be limited exceptions to this approach in the disciplinary process, including provisions relating to the criminal standard of proof. In addition, the current transitional provisions make specific exemptions for the sanctions that may be imposed in certain cases, particularly those arising from conduct before 6 January 2014.<sup>2</sup>

#### *Proposal*

36. That the new regulations come into force on or around 1 February 2027 and will apply to any cases that are ongoing by that time. Any step taken prior to the new regulations coming into force will be treated as having been taken under the equivalent provisions of the new regulations. We have introduced draft transitional provisions in each set of regulations to ensure a consistent approach across the BSB's processes, including disciplinary action, enforcement decisions, interim orders and health procedures.
37. As a result of this proposal, we will need to make consequential amendments to the existing transitional provisions in Part 1 of the Handbook.<sup>3</sup> We intend to preserve the existing position in relation to pre-

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<sup>2</sup> See Part 1, r114.

<sup>3</sup> See r114, Part 1 of the Handbook.

2014 conduct and the standard of proof so that the same approach as under the current regulations will continue to apply (see r114).

38. Although we are aiming to implement the new regulations from 1 February 2027, we recognise that some flexibility may be required to accommodate key stakeholders, including BTAS and the LSB. We intend to work closely with these organisations to ensure a smooth and effective implementation, particularly at an operational and practical level. So while this is our preferred implementation date, it may be necessary to adopt a later date (still in early 2027) if it is necessary for key stakeholders' readiness. We will confirm the agreed implementation date as soon as possible (in our next Feedback Statement) and provide sufficient notice to ensure that both the profession and the public are aware well before the new regulations come into force.

### *Benefits of the proposal*

39. Introducing the new regulations with a fixed launch date will ensure that they apply consistently to all cases being considered by the BSB or already in the system. This approach will promote clarity and avoid the complexity of operating different regulatory frameworks at the same time. In our view, the primary benefit of this approach is that it will avoid unnecessary confusion and promote understanding for barristers and the wider public.
40. We recognise that this approach will have implications for barristers who may already be engaged in the BSB's enforcement process at the point in time when the new regulations are introduced. However, we consider it proportionate to proceed on this basis as the changes are fair and do not remove existing barrister rights, including the ability to challenge decisions. By consulting publicly on this proposal, we are providing an opportunity for feedback and ensuring that adequate notice is given to those barristers who may potentially be affected. We also note that aspects of our changes, including the revised approach to allegations and the BSB's enforcement decisions, have already been implemented in practice since 1 December 2025, although not formally reflected in the regulations.
41. In relation to interim orders and the general disciplinary process, the proposals broadly maintain the existing thresholds for referral and the current panel size and composition. Therefore, the new regulations will not change barristers' rights nor their expectations of the process. The key objective is to improve the efficiency and timeliness of proceedings, including by empowering BTAS and streamlining procedural steps. This is expected to benefit all participants in the process, including barristers, by ensuring that cases are handled more efficiently, while maintaining fairness and appropriate safeguards.

42. We recognise that the proposals change the threshold for referral into the health process. However, as the health jurisdiction, which is designed to protect the public, is non-disciplinary and less adversarial in nature we consider a transitional approach remains appropriate. Given the very small number of health cases, we also expect that the new regulation will have limited (if any) practical impact on cases already within the Fitness to Practise system.

**Question 1**

**Do you agree with our proposal to update the commencement and transitional provisions so that the new regulations will come into force on or around 1 February 2027 and apply to all new and ongoing cases from that specified date? If not, why not?**

## ***Proposal 2: Publication to occur in all cases, including dismissals***

### *Summary of the proposal*

43. To extend publication of Disciplinary Tribunal hearing outcomes so that outcomes are published in all cases, including where the charges against a barrister have been dismissed.

### *Background and proposed approach under the new regulations*

44. Currently, disciplinary proceedings are usually put into the public domain when a date is formally set for the substantive hearing before the Disciplinary Tribunal and a 'convening order' is signed by the President of COIC. The convening order is normally issued 14 days before the substantive hearing and, once issued, details of the hearing are published on the BTAS website. Those details are usually limited to the name of the barrister and the provisions of the Code of Conduct that have allegedly been breached. The particulars of the charge(s) are only made public at the start of the substantive hearing.
45. Under the current regulations, BTAS is required to publish the finding and sanction of the Disciplinary Tribunal only where charges are proved. This means that, although hearings are held in public, BTAS must not publish the outcome where charges are dismissed, unless the Respondent requests publication.
46. However, as set out in the first public consultation and the Consultation Feedback Statement, our approach to publication will change under the new regulations. Under our proposals, publication will usually occur earlier in the process, following the setting of case management directions. At that stage, BTAS will publish the charge sheet to promote greater openness and transparency about disciplinary proceedings. For further information on our proposed approach to publication, please refer to Proposal 25 of the first public consultation and Consultation Feedback Statement.

### *Proposal*

47. As a consequence of bringing forward the timing of publication, cases will enter the public domain at an earlier stage, including those that may ultimately be dismissed by the Disciplinary Tribunal. This creates a gap in the current framework as BTAS would not currently be permitted to publish the outcomes of cases where charges are dismissed, unless requested by the respondent barrister, even though the proceedings themselves would already be published. To address this, we propose to extend the publication provisions so that BTAS may publish outcomes in all cases, including where charges are dismissed.

48. While our starting position is that publication should occur in all cases, we consider it necessary to retain a discretionary power for BTAS not to require publication, where it is not in the public interest to publish in full or at all. This change is reflected in regulation 32 of the *BSB Disciplinary Tribunal Regulations*.

*Benefits of the proposal*

49. Publishing outcomes in all cases promotes transparency and ensures that the public is informed about disciplinary cases that are being pursued by the BSB and so will help build public trust in the disciplinary process. It will also ensure fairness to the barrister, as publication of the outcome will make clear where charges have not been proved, helping to restore and protect the barrister's reputation.
50. This proposal is also aligned to one of the Harman Review recommendations, which proposed that written reports must include findings in relation to all charges, setting out reasons as to why charges were proved or not proved. The Review suggested that the Regulations be amended to reflect this (see Recommendation 22), and so we are implementing this by extending the requirements to publish all final outcomes, including where the charges are dismissed, to promote greater transparency and fairness.

**Question 2**

**Do you agree with the publication provisions being extended so that outcomes are published in all cases, including where the charges against a barrister have been dismissed? If not, why not?**

### ***Proposal 3: The power to refer and impose immediate interim orders and interim orders on the basis of conditions only***

#### *Summary of the proposal*

51. To extend the power to refer for and impose an immediate and interim order so that such orders may be imposed on the basis of interim conditions, rather than interim suspension or disqualification only.

#### *Background and current approach*

52. Under the current framework, in order to refer a barrister for an interim order pending any disciplinary process, decision-makers must be satisfied that the imposition of an interim suspension and disqualification is necessary, before any immediate interim order or interim order can be imposed. This means that a referral could only be made where suspension or disqualification is considered necessary; it will not be sufficient if the order is sought on the basis of conditions alone.
53. However, once the relevant thresholds for imposing an immediate interim order or an interim order have been met, the regulations allow the decision-maker to impose conditions in place of a period of interim suspension or disqualification, where appropriate. In practice, interim panels have previously imposed interim orders in cases where public protection concerns are adequately addressed through conditions, rather than a period of interim suspension or disqualification.

#### *Proposal*

54. In line with our first consultation, we will simplify the grounds for referral to an interim panel and for the imposition of an immediate interim order. Further information about this proposal, as well as our rationale for change, can be found at Proposal 15 of the first consultation and the Consultation Feedback Statement.
55. Under the new regulations, an interim order may be imposed pending the disposal of any charges or disqualification applications by a Disciplinary Tribunal where it is necessary:
- a) To protect the interests of clients (or former or potential clients);
  - b) to protect the public; or
  - c) otherwise in the public interest.<sup>4</sup>
56. An immediate interim order may be imposed by the Chair of the IDB where they are satisfied that it is justified, having considered the risk to the public if such an immediate interim order is not imposed having regard to the regulatory objectives.<sup>5</sup>

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<sup>4</sup> See regulation 9.2 of the *BSB Interim Order Regulations*.

<sup>5</sup> See regulation 6.3 of the *BSB Interim Order Regulations*.

57. As a part of this change, and as indicated in the Consultation Feedback Statement, we will remove the second limb of the current referral test (i.e., having regard to the regulatory objectives, pursuing an interim suspension is appropriate in all the circumstances) on the basis it is unnecessary. The effect of this change will be that an immediate interim order or interim order can be imposed on the basis of conditions alone, where this is sufficient to address the relevant risks.
58. Importantly, regardless of the form of order sought, the BSB will still need to satisfy the decision-maker that the ‘test of necessity’, on the grounds set out above, is met.

### *Benefits of the proposal*

59. By allowing the referral and imposition of an immediate interim order or interim order on the basis of conditions alone, decision-makers will be able to respond more proportionately and appropriately. There may be cases where an interim order is necessary for the protection of the public, but the most proportionate outcome would be to allow the barrister to continue practising subject to conditions, i.e. without the need for an interim suspension or disqualification. This change will ensure fairness to barristers, while promoting and protecting the public interest.
60. Although this change will widen the scope of immediate interim orders and interim orders, we consider that it remains appropriate, and proportionate, if such an order is necessary to address public protection concerns or is otherwise in the public interest. We also have evidence that panels have previously imposed an interim suspension subject to conditions, where they determined that public protection concerns could be appropriately addressed through those conditions. This indicates that their use on the basis of conditions is in fact an accepted existing practice, which the change will now codify.

### **Question 3**

**Do you agree with our proposal to extend the power to impose an immediate and interim order so that such orders may be imposed on the basis of interim conditions, rather than interim suspension or disqualification only? If not, why not?**

## ***Proposal 4: Undertakings subject to review rather than appeal***

### *Summary of the proposal*

61. Extending the right to request a review of an interim order so that it also applies in respect of undertakings accepted and imposed by an interim panel. However, there will be no right of appeal against such undertakings.

### *Background and current approach*

62. The current regulations confer a right on the barrister to request a review of an interim order where there is a significant change in circumstances or for some other good reason. This right may be exercised at any time while the barrister is subject to interim suspension, disqualification or interim conditions.
63. As set out in the first consultation, we also propose to extend the right to request a review of an interim order, which is currently only afforded to the barrister, so that the BSB also has a right to request a review. This change is reflected in the drafting of regulation 10 of the *BSB Interim Orders Regulations 2027*.
64. However, the current right of review does not apply to undertakings, although an interim panel can accept undertakings from a barrister. This means that a barrister may be bound by undertakings, with potential consequences for a breach, without any mechanism for those undertakings to be reviewed or varied if circumstances change. For example, there may be cases where the terms or the undertakings are no longer appropriate or workable, particularly where there is a significant period between the interim order and the final outcome of the proceedings.

### *Proposal*

65. We will address this gap by giving review panels the power to consider requests to review interim undertakings. This option to invoke this power will be available to both parties and may be exercised at any time while the undertakings remain in place, in the same way as they apply to other types of interim orders. Please refer to regulation 11 of the *Interim Orders Regulations 2027* to see this proposed drafting in full.
66. We are not proposing to introduce a separate right of appeal in relation to undertakings.

### *Benefits of the proposal*

67. Panels will be empowered to review undertakings and therefore respond appropriately where there is a change in circumstances or for some other

good reasons, ensuring that undertakings remain appropriate and workable while in force.

68. Providing a mechanism to review undertakings to both parties will improve the system's fairness and effectiveness, while ensuring that the public is properly protected.

**Question 4**

**Do you agree that the right to request a review of an interim order should be extended so that it also applies in respect of undertakings accepted and imposed by an interim panel? If not, why not?**

## ***Proposal 5: Right of appeal in health matters***

### *Summary of the proposal*

70. To extend right to appeal the decision of a Health Panel to the BSB, currently afforded only to the barrister. We will also amend the regulations to require that both parties are notified of the appeal hearing as well as the right to be heard and notified of the outcome.

### *Background and current approach*

71. Under the current regulations, a barrister may appeal a decision of the Health Panel to extend, vary or replace a period of restriction. Any appeal must be made in writing to the President of COIC within 14 days of the decision.
72. When an appeal is received, the Chair of the Appeal Panel must notify the barrister of the appeal hearing and their right to attend and produce evidence. Our current regulations do not require the BSB to be notified of the hearing or provide for the BSB to attend or make representations.

### *Proposal*

73. To introduce a right for the BSB to appeal decisions of a Health Panel made at either a preliminary or full hearing.
74. The BSB's right of appeal will mirror the existing rights available to the barrister, which will allow both parties to appeal decisions to impose extend vary or replace a period of restriction or conditions. In addition, we will also allow the BSB to appeal a decision not to make an order.
75. As part of the proposal, an appeal must be made in writing to BTAS, setting out the grounds of the appeal, within 14 days of the date of the decision. This time limit will equally apply to both parties. BTAS will then be required to notify both parties of the appeal hearing date.
76. The new regulations for this proposal can be found at regulation 12 of the *BSB Health Procedure Regulations*.
77. No further right of appeal will be possible against a decision of an Appeal Panel, as under the current regulations.

### *Benefits of the proposal*

78. It will ensure that the appeal process applies equally to both parties, including the right to bring an appeal, to be heard and to be notified of the hearing and outcome.

79. Although we have limited practical experience of Health Panel cases (given that none of the small number initiated have progressed to a final hearing), we consider that there is a clear operational need for the BSB to have the ability to appeal decisions in appropriate cases. By amending the regulations in this way, both parties will have an equal opportunity to address or challenge decisions of the panel where appropriate, which will improve the overall fairness and effectiveness of the system.
80. Although we note that the Health Procedure is non-disciplinary in nature, this proposal will also bring the appeal process in the Health Procedure in line with other parts of the enforcement framework, where we have introduced equivalent rights of appeal for both parties.

**Question 5**

**Do you agree with our proposal to allow both parties the right to appeal a decision of the Health Panel and to be notified equally of the appeal hearing, have a right to attend and be notified of the outcome? If not, why not?**

## Drafting approach and issues for feedback

81. This section sets out the key drafting principles that we have created and used in developing the new regulations. These principles have aided us in maintaining clarity, accessibility and consistency across the text. We believe they will ensure we have an enforcement framework that is more efficient and effective for all stakeholders, especially the profession, regulatory decision-makers and the public.
82. The new regulations are annexed at **Annex 2**, and we welcome views on the drafting.
83. As part of the redrafting process, a tracker mapped the changes from the current regulations to provisions in the new regulations. This tracker is annexed at **Annex 3** and can be used to see the nature, extent and detail of the changes being proposed.
84. We have sought to ensure that the new regulations are legally sound and consistent with good regulatory practice, while accurately reflecting the final policy positions adopted by the BSB following the first public consultation. We have also made several consequential amendments arising from those proposals.
85. In the following section we highlight some key changes across the different sets of the regulations. This is not an exhaustive account of all changes reflected in the regulations but shows the more significant changes made across the enforcement process. We have added this details to assist readers in understanding the changes, recognising the scale and complexity of comparing the new regulations against the current provisions.

### Streamlining the new regulations

86. A key part of our work has been to streamline the regulations where appropriate. Our aim is for a framework that is better organised, more simplified and expressed in plain English, so that it is more accessible to the profession, public and decision-makers. This reflects an Enforcement Review recommendation for the new framework, that we should reduce complexity and duplication, clarify existing powers and improve its overall usability.
87. To do this, we have removed guidance material from the regulations, our intention being that the regulations should be capable of being understood by themselves. Additionally, where we have identified that existing provisions included unnecessary or overly prescriptive detail (such as administrative and operational details), we will move this to guidance or supporting documents, in line with sector best practice.

88. This approach will not remove any substantive rights or safeguards from the regulations. Rather, it will ensure that the regulations remain clear and proportionate, with any necessary supporting information set out in more appropriate documents.

### **Revised Handbook structure**

89. The BSB is considering in the longer term whether to move away from the current Handbook model by separating the existing Handbook into its constituent parts. In anticipation of this, we have drafted the new regulations so that they can, as far as possible, stand alone if necessary.
90. This approach allows readers to identify the relevant powers and responsibilities at each stage within the applicable set of regulations, without needing to make extensive cross-references to other provisions or parts. While this approach may introduce a level of repetition, we consider that this is justified by the resulting improvements in clarity, readability and accessibility.
91. However, we will continue to use a single index of defined terms across all sections of the Handbook, as contained in Part 6. Defined terms will be clearly identified by *italicisation* throughout the regulations, and we will correct any inconsistencies in the current regulations, making it easier for readers to recognise when a term has a specific meaning.
92. For this work the revised structure will make the regulations easier to navigate and understand, particularly for lay users, and will improve the transparency of the decision-making framework.

### **Changes to terminology**

93. We have amended some of the terminology used in the current enforcement regulations. Key changes are reflected in the proposed additions and amendments to the defined terms in Part 6 of the Handbook, as set out in Annex 2 'List of Part 6 revisions'.
94. One significant example of these changes is replacing the term 'breach of the Handbook' with 'breach of regulatory obligations'. We propose to define 'regulatory obligations' in Part 6 as 'any obligation under any part of the BSB Handbook or Code of Conduct or the Enforcement Regulations'. In our view, this definition is sufficiently broad to capture conduct that would currently constitute a breach of the Handbook, while introducing terminology that remains appropriate if the Handbook is restructured in the future (as outlined above). We wish to make clear that this change is not intended to alter the substance of the current approach but to adopt new terminology that will

apply to barristers in the same way as at present and continue to operate effectively in the future.

95. Another key change to terminology is the removal of the definition of 'professional misconduct' from Part 6 of the Handbook. In our experience, the existing definition of 'professional misconduct' has caused difficulties in practice. We therefore propose to remove, rather than replace, the definition and rely on the ordinary meaning of the term, as informed by caselaw. This approach is intended to better align the concept of professional misconduct with established legal principles. This change is reflected in the 'List of Part 6 revisions' in Annex 2.
96. Another example of this approach is replacing references to the 'Commissioner' in the Enforcement Decision Regulations with 'BSB' or 'authorised decision-makers', both of which will be defined terms. The current regulations use the term 'Commissioner' to refer to the Executive function of the BSB, with certain decision-making powers delegated to staff in the BSB's Scheme of Delegations.
97. This model was intended to create a distinction between the Board of the BSB and executive decision-making. The construct of the 'Commissioner' was developed to mirror the arrangements of other regulators, where the role of 'Registrar' is performed by the Chief Executive or other senior member of the Executive. At the time, the creation of the 'Commissioner' role was intended to provide a clear, symbolic distinction between these functions, creating a vehicle for the delegation of powers to members of the Executive and allowing for future flexibility. In practice, however, use of this term has led to confusion and we see less need for this approach in the new regulations.
98. We propose effecting the change by directly referring to the 'BSB' or an 'authorised decision-maker', where decisions are taken within the Executive. These terms have a clearer meaning and so will improve readers' understanding of the new regulations. This will also align us with the approach taken by other professional regulators.<sup>6</sup>
99. Using the term 'authorised decision-maker' will ensure that enforcement decision-making powers continue to be vested directly in the Executive, without requiring any change to the BSB's constitutional arrangements. Under this model, executive powers to make enforcement decisions will be delegated to BSB staff through the established scheme of delegations.
100. References to 'registered European lawyers' and 'qualified Swiss lawyers' have been retained in the new regulations. However, this is a temporary

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<sup>6</sup> See, for example, [SRA Regulatory and Disciplinary Procedure Rules](#).

measure, and in a separate piece of work outside the scope of this project these terms will be replaced. They are likely to be replaced by the term 'adaptation period lawyers' to align with work to update the Handbook to incorporate requirements from post-Brexit trade agreements regarding the mutual recognition of lawyers, including with Switzerland. These proposals are subject to LSB approval, but once approved, the regulations will be updated accordingly. We expect this work to be completed in advance of the new regulations coming into force.

101. Finally, we note that the regulations distinguish between a power to 'delegate' in relation to the BSB and a power to 'authorise' in relation to the President of COIC, acting on behalf of BTAS. This represents a departure from the current regulations, which provide for the BSB to 'authorise' any person, group or body to exercise its functions or powers. The change in terminology for the BSB is intended to address concerns that the term 'authorise' may imply that residual decision-making power remains with the BSB's Board. The new regulations remove this ambiguity by making clear that no such residual power is retained. This issue does not arise in respect of the President of COIC and references to 'authorise' have therefore been retained in that context.

### **Consequential Amendments**

102. As a result of the changes proposed in the new regulations, we will need to make consequential amendments to other Parts of the Handbook to reflect changes in terminology introduced by these new regulations.
103. For example, references to 'Fitness to Practise', which will no longer be used, will need to be updated where they appear elsewhere in the Handbook, including in Part 2: Code of Conduct (rC64.2) and Part 3: Scope of Practise, Authorisation and Licensing Rules (rS72 and rS75).
104. References to the 'Commissioner' (in the context of BSB decision-making under the current enforcement regulations) will need to be updated, including in Part 1 and some of the definitions in Part 6.
105. The amendments identified above are not intended to be exhaustive. Further consequential changes may be required after this consultation and once the final regulations are settled. We welcome feedback on any other amendments to the Handbook that you feel we may need to consider.

**Question 6**

**Do you think the new regulations are:**

- **better organised,**
- **simplified,**
- **expressed using plain English and**
- **accord with regulatory best practice?**

**Please explain your view.**

**Question 7**

**Do you agree with the proposed revisions to the defined terms in Part 6 of the Handbook, as set out in Annex 2? If not, please explain your view and whether you consider any amendments are required.**

## Revised Part 5A of the Handbook: Bar Standards Board Enforcement Decision Regulations 2027

106. As noted, we have revised how the regulations are worded to clarify the decision-making responsibilities at the assessment and investigation stages of a case. We have also sought to implement the policy decisions adopted following the first consultation. We have highlighted some of these changes below, including new issues identified in our drafting work.

### *Communication of detailed, written allegations*

107. A primary change to these regulations relates to the communication of detailed, written allegations. Under the new regulations, the point at which detailed, written allegations are communicated to the barrister has been deferred to a later stage of the investigation than is current practice.
108. The BSB will first be required to give notice of an investigation to the barrister (unless it is not in the public interest to do so) and following a period of investigation and once any allegations are developed, send a written notice of allegations to the barrister; giving them an opportunity to respond before any decision is made. Further detail on the notice requirements is set out in regulation 8 of the *BSB Enforcement Decision Regulations*.
109. In future, until detailed allegations are sent to the barrister, the BSB will retain the power to gather information for the purpose of assessing a report (see regulation 3) as well as a range of investigatory powers to consider potential breaches (see regulations 8, 9 and 13), under the new regulations.
110. This is in line with current BSB practice, reflecting the process we have used since December 2025. Further information is available in the Consultation Feedback Statement in relation to this specific proposal [here](#).

### *Power to correct administrative errors*

111. We propose introducing an express power allowing the BSB or an IDB panel to correct administrative errors in, or in relation to, any decision under the regulations (see regulation 18.1). This will allow such errors to be corrected without the need for a formal reconsideration or for the applicable reconsideration threshold to be met.
112. In effect, this provision will operate as a 'slip rule'. It will allow the correction of typographical errors or accidental slips or omissions in judgments and orders, for example references to the wrong party or wrong date. The power is therefore strictly limited to correct administrative errors and will not permit a decision-maker to reopen the substance or revisit the merits of a decision.

The proposal codifies existing practice by introducing an express power for decision-makers to correct administrative errors, consistent with the approaches adopted by other regulators.

#### *Duty of cooperation*

113. In the Consultation Feedback Statement, we indicated that we would consider whether additional provisions were needed to emphasise the duty of cooperation. On reflection, we consider that the regulations provide adequate mechanisms to address non-cooperation, without the need to explicitly restate a barrister's duty to provide promptly to the BSB such information as it requires for its regulatory functions, under rC64.1 of the Code of Conduct. We have therefore concluded that we do not need to amend the regulations as they are sufficient to cover this requirement, when read in their broader context.

#### *Panel members*

114. In line with the Consultation Feedback Statement, the new regulations reflect our proposal to reduce IDB panels from five to three members, with a lay majority and one barrister member. Further detail on our new approach to IDB panel composition can be found at Schedule 1 to the *BSB Enforcement Decision Regulations 2027*.
115. We may need to introduce this change earlier than others, to accommodate an increase in case referrals. We will advise stakeholders as soon as we are able to do so.

#### **Question 8**

**Do you think that the proposed Enforcement Decision Regulations as set out in Annex 2 provide a suitable framework that:**

- a) implements our policy positions; and**
- b) accords with our overall objectives of improving the fairness, transparency, efficiency and effectiveness of the end-to-end enforcement process?**

**Please explain your view.**

## Revised 5B of the Handbook: Bar Standards Board Disciplinary Tribunals Regulations 2027

116. We are introducing a suite of proposals to improve the disciplinary process and strengthen the BSB's enforcement function in support of its regulatory objectives and the public interest. A central aim of these changes to the *BSB Disciplinary Tribunals Regulations 2027* is to improve the overall efficiency and effectiveness of the disciplinary system; including by giving BTAS greater case management powers and introducing an overriding objective (see regulation 3).
117. A key feature of this approach is the introduction of set time limits to support more timely case progression. For example, parties will be required to complete and return a case management questionnaire within 21 days or such other period as BTAS considers appropriate (per regulation 7.4). Following this, the initial case management directions must be issued within 21 days, with or without an oral hearing, in accordance with regulation 7.6.
118. These time limits are intended to empower BTAS, and to reduce delay, manage the parties' expectations, and ensure greater consistency across cases, including in relation to publication.

### *Publication*

119. Under the new regulations, and in line with our Consultation Feedback Statement, publication of the details of a disciplinary case is linked to the setting of case management directions. BTAS will publish the charge sheet or disqualification application within 7 days of the case management directions being set, unless otherwise ordered by the directions judge or Chair (see regulation 7.10).
120. We consider that this approach strikes an appropriate balance between transparency and fairness. It promotes the principle of open justice in the disciplinary process, while allowing sufficient time for preliminary matters or applications (such as applications for anonymity) to be addressed before publication. It also ensures procedural fairness by providing both the barrister and the BSB with an opportunity to raise any objections in advance of publication, whilst reducing unnecessary delays or delaying tactics.

### *Vulnerable witnesses and evidence*

121. As previously discussed, we have sought to streamline how the regulations are drafted and improve their accessibility by adopting a clear and simplified approach. One way we have achieved is through revising the provisions on

special measures. We have replaced previous provisions and removed the concept of ‘vulnerable witnesses’ from the new regulations. This change will not reduce or limit the protections available to witnesses, including those who may be vulnerable. Instead, the regulations now require the Tribunal to consider whether any measure is ‘desirable’ to facilitate the giving of evidence by a witness or the Respondent (see regulation 20).

122. We have also clarified that special measures may be applied to the Respondent, making clear that they are available to all parties, rather than being limited to witnesses. This reframing ensures a more flexible and inclusive approach, which furthers the overriding objective.
123. The previous regulations included a non-exhaustive list of potential special measures that may be adopted by the Disciplinary Tribunal. We consider that this detail is better addressed through guidance as it relates to operational matters. We will develop these guidance materials alongside the new regulations, to ensure they effectively support decision-makers in practice and ensure consistent application across all cases. Taking this approach to guidance aligns us with the approach adopted by the courts and other professional regulators regarding special measures for receiving witness evidence.<sup>7</sup>
124. Further, in relation to the revised evidence provisions, we have introduced a specific exception to the general prohibition on admitting evidence of prior misconduct. In particular, the new regulations now include a provision permitting the Disciplinary Tribunal to receive evidence of prior allegations that were the subject of the determination by consent procedure, where consent is given (see regulation 18). In our view, this will streamline the process in cases where the Respondent agrees, by facilitating the efficient admission of uncontested evidence, while maintaining procedural fairness.

#### *Interim orders and the Disciplinary Tribunal*

125. We have made changes in relation to a Disciplinary Tribunal’s powers to impose interim orders following a finding on the charges but pending sanction. These amendments are largely consequential, arising from the implementation of other proposals consulted on in our first consultation.
126. We have aligned the test to impose such orders with the test now set out in the *BSB Interim Orders Regulations 2027*. Under the new approach, the Disciplinary Tribunal may impose an interim order if it necessary (at regulation 26):

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<sup>7</sup> See for example, Civil Procedure Rules 1.6, CPR Practice Direction 1A – Participation of Vulnerable Parties or Witnesses; The Solicitors (Disciplinary Proceedings) Rules 2019, s22 and SDT Guidance Note on Applications for Special Measures.

- (a) to protect the interests of clients (or former or potential clients);
- (b) to protect the public; or
- (c) otherwise in the public interest.

127. We have also adopted a similar test for the Disciplinary Tribunal to apply when deciding whether to impose an immediate suspension and/or such conditions as it considers appropriate following a decision on finding and sanction but pending any appeal where it considers it is necessary (at regulation 30). We consider that the same test for interim orders should apply at all relevant stages of the disciplinary process. Aligning the tests for imposing interim orders will promote a clear and consistent decision-making framework, one that supports more fair and efficient outcomes.

#### *Panel members*

128. We have retained our current approach to panel composition for disciplinary matters in the new regulations. However, we have made several minor amendments to improve both the efficiency of the process and the overall readability of the provisions. For example, under the previous regulations, only the Respondent was permitted to object to the appointment of a panel member or a substitute member. Under the new regulations, this right has been extended to the BSB (see regulations 11 and 13). By ensuring that this right equally applies to both parties, we consider that the revised approach enhances both the fairness and effectiveness of the process.

#### **Question 9**

**Do you think that the proposed Disciplinary Tribunals Regulations as set out in Annex 2 provide a suitable framework that:**

- a) implements our policy positions; and**
- b) accords with our overall objectives of improving the fairness, transparency, efficiency and effectiveness of the end-to-end enforcement process?**

**Please explain your view.**

## Revised Part 5C of the Handbook: Bar Standards Board Interim Orders Suspension and Disqualification Regulations 2027

129. Most of the changes to these regulations give effect to the policy decisions set out in the Consultation Feedback Statement.

### *Duration of interim orders*

130. However, we would highlight one substantive change concerning the duration of interim orders. Under the current regulations, any order imposed by an interim panel under the *Interim Suspension and Disqualification Regulations* (in Part 5C of the BSB Handbook) remains in force until the 'disposal of charges'. In practice, this means that such orders continue until a Disciplinary Tribunal has decided on the charge(s) or application, i.e. whether it is proved or not proved (or otherwise dismissed).
131. Under the new regulations, interim orders will remain in effect for the duration of the disciplinary proceedings, pending a final decision on sanction (or the dismissal of all charges), rather than only until a finding is made. This represents an extension of the approach outlined in our first consultation, under Proposal 20.
132. To support this, we have proposed to amend the terminology in the new regulations by replacing the phrase '*pending the disposal of any charges or applications by a Disciplinary Tribunal*' with a defined term of '*disposal*', which will refer to the final determination of the case (including sanction, where applicable). This is set out at regulation 14.
133. Consequently, related provisions that deal with the duration of interim orders have been amended to ensure consistency across the regulations, particularly those addressing when an interim suspension or undertaking ceases to have effect. Similarly, we have updated references to the duration of interim orders in Part 5B - the draft Disciplinary Tribunals Regulations 2027. This provides greater clarity and ensures a coherent approach throughout the new regulations.

### *Appeal Panel members*

134. While we have largely retained the existing approach to panel composition in respect of interim orders, we have made minor changes to the requirements for appeal panel members in interim order proceedings. Under the new approach, appeal panels will consist of two King's Counsel and a lay member (as now) (see regulation 5). However, we propose to remove the current requirement that the King's Counsel members of the appeal panel have at least 10 years' experience as a KC or that they be entitled to sit as a Recorder or a Deputy High Court Judge.

135. This change will address the practical difficulties created by these requirements, as well as aligning the composition of appeal panels in interim order proceedings with those in disciplinary and health proceedings, which do not impose such limitations. We believe this change will improve the efficiency of panel selection, which is particularly important in interim order proceedings given the need for timely decision-making in such matters.

**Question 10**

**Do you think that the proposed Interim Orders, Suspension and Disqualification Regulations as set out in Annex 2 provide a suitable framework that:**

- a) implements our policy; and**
- b) accords with our overall objectives of improving the fairness, transparency, efficiency and effectiveness of the end-to-end enforcement process?**

**Please explain your view.**

## **Revised Part 5D of the Handbook: Health Panel and Procedure Regulations 2027**

137. We have reframed the previous 'Fitness to Practise' process to focus explicitly on 'health' and made consequential amendments as a result, in line with the position indicated in our first consultation and in our Consultation Feedback Statement. We believe this clarifies the role of the health panel and the procedure as a non-disciplinary means of addressing health issues and better reflects the purpose of the regime.

### *Impairment*

138. One of the most significant proposals is to amend the referral criteria, including the removal of the requirement for 'incapacitation'. Under the new approach, the BSB may refer an individual to a Health Panel for determination where there is a realistic prospect of finding that the individual has a health condition that impairs their ability to practise and consequently the imposition of a restriction or condition is necessary for the protection of the public or is otherwise in the public interest. This revised referral criteria is set out in the provisions governing referrals to a Health Panel at regulation 3.

### *Duration of orders*

139. As discussed in the Consultation Feedback Statement, we have also amended the provisions relating to the duration of health orders, which can be found under 'Continuation of restriction or conditions' at regulation 11. Under these provisions, panels will have the power to impose a health order for a fixed period not exceeding 36 months.
140. Additionally, panels may reconvene to review an order prior to its expiry to assess whether there are any ongoing public protection or public interest concerns before the barrister resumes their practice. Such a review will be mandatory before the expiry of any order that was imposed for a period of 12 months or more.
141. Where a panel decides that a barrister remains unable to practise, panels will have the power to impose a further order. Where the individual has been subject to a restriction (whether by order and/or undertaking) for a cumulative period of at least 36 months, the panel may impose an indefinite order. This approach is intended to balance the need to protect the public with fairness to barristers, recognising the significant impact such orders may have and that they should be a measure of last resort.

### *Panel membership*

142. We have set out the updated composition of Health Panels in Schedule 1. A Health Panel will consist of three members nominated by the President, comprising a Chair, a practising barrister and a lay member. The current requirement that the Chair be a King's Counsel has been retained. For consistency, appeal panels in health matters will mirror this composition and consist of a KC Chair, a practising barrister and a lay member.

**Question 11**

**Do you think that the proposed Health Panel and Procedure Regulations as set out in Annex 2 provide a suitable framework that:**

- a) implements our policy positions; and**
- b) accords with our overall objectives of improving the fairness, transparency, efficiency and effectiveness of the end-to-end enforcement process?**

**Please explain your view.**

## **Draft guidance on access to tribunal documents by non-parties**

143. As set out in the Consultation Feedback Statement, we have produced guidance on access by non-parties to documents that relate to Disciplinary Tribunal proceedings. Our intention is for this guidance to support the routine publication of certain documents for tribunal hearings and assist in managing requests for access to documents made by non-parties, including members of the public and the press.
144. We have drafted the guidance to be in line with the principles of open justice and transparency and believe it will support public confidence in and understanding of the disciplinary process. Our longer term aim is for it to promote better quality of decision-making and the proper administration of justice.
145. In determining requests for access to documents by non-parties, the Disciplinary Tribunal will consider and balance the interests of the public and the press, on the one hand, and the rights of individuals including the individual right to privacy under Article 8 of the European Convention on Human Rights.
146. The guidance is attached at **Annex 4**.

### **Question 12**

**Do you think the guidance has struck the right balance between the public interest in ensuring open justice and transparency and a barrister's rights, including those under the European Convention on Human Rights? Please explain your view.**

### **Question 13**

**Do you have any general feedback on the guidance on access to tribunal documents by non-parties? We welcome as much detail as you can provide.**

## Equality Impact Assessment

147. We have conducted Equality Impact Assessments (EIAs) in relation to the proposals.
148. Since the first consultation, we have reviewed the preliminary EIAs drawn up as part of developing the 'in-principle' proposals and updated them to reflect the new regulations. We have also conducted EIAs on the additional proposals included in this second consultation.
149. As indicated in the first consultation, we have not identified any significant equality concerns from the proposals, and responses to the consultation did not identify any material impacts. Overall, the EIAs indicate that the proposals are likely to result in positive outcomes for many users, including individuals with protected characteristics, such as disability and age.
150. Several proposals are expected to lead to quicker progression and resolution of cases before the Disciplinary Tribunal. This may have especially positive impacts in certain cases, such as those involving sexual harassment complaints, thereby promoting greater equality for groups with certain protected characteristics.
151. However, some proposals have the potential to impact adversely on one of more protected characteristic. To prevent any potential for disproportionate adverse impacts and to meet our obligations under the Public Sector Equality Duty, we have identified those impacts and considered appropriate mitigations. These are reflected both in the new regulations and the supporting materials we intend to introduce ahead of implementation.
152. The draft EIAs can be read in full at **Annex 5**.
153. While we have not identified significant equality concerns directly arising from the proposals, we recognise that individuals with certain protected characteristics are disproportionately represented in the BSB's disciplinary processes. We are committed to ensuring that the new regulations and approach do not exacerbate these disparities for groups with certain protected characteristics. To support this, we propose to monitor the ongoing equality impacts of the changes and any unintended consequences, including during and after implementation of the new regulations.

### Question 14

**Do you have any feedback about the EIAs we have conducted?  
Are any other equality impacts we should consider, beyond those set out in the EIAs? Where possible, please provide evidence.**

## Data Protection Impact Assessment

154. In developing the new regulations, we have conducted preliminary Data Protection Impact Assessments (DPIAs), to identify any early issues that may indicate a requirement for a different approach. We have also considered the feedback to our first consultation regarding the data and privacy implications of our proposals, and specifically those relating to open justice.
155. Our analysis is ongoing but we are keen to hear external views on whether any of the changes in the new regulations may materially alter or change an individual's rights and freedoms as recognised under current data protection legislation, notably the UK General Data Protection Regulation and the Data Protection Act 2018.
156. We welcome feedback on any data protection or use issues or risks raised by our proposals. If possible, please detail any specific scenarios that illustrate how the risk could arise in practice.
157. Issues or concerns highlighted in response to this consultation will be considered as part of the formal DPIAs.

### Question 15

**Are there any other potential data protection or privacy issues raised by the new regulations that you think we should be aware of? Where possible, please provide evidence.**

## How to respond to this consultation

158. The consultation is open for comment from **1 May 2026** to **17 July 2026**. You do not need to wait until the deadline to respond to this consultation. Responses can be submitted by using our [online survey platform](#) or emailed to [enforcementregs@barstandardsboard.org.uk](mailto:enforcementregs@barstandardsboard.org.uk).
159. If you would like to access this consultation document in an alternative format, such as larger print or audio, please contact us at: [enforcementregs@barstandardsboard.org.uk](mailto:enforcementregs@barstandardsboard.org.uk) or by telephone at 020 7611 1444.
160. If you would like to provide your feedback via another method than a written response, please contact us using the same contact details above.
161. We may publish your response and so please let us know if you do not want to be named as a respondent to this consultation or would like your response to be anonymised.

## Annex 1 - Our consultation questions

1. Do you agree with our proposal to update the commencement and transitional provisions so that the new regulations will come into force on or around 1 February 2027 and apply to all new and ongoing cases from that specified date? If not, why not?
2. Do you agree with the publication provisions being extended so that outcomes are published in all cases, including where the charges against a barrister have been dismissed? If not, why not?
3. Do you agree with our proposal to extend the power to impose an immediate and interim order so that such orders may be imposed on the basis of interim conditions, rather than interim suspension or disqualification only? If not, why not?
4. Do you agree that the right to request a review of an interim order should be extended so that it also applies in respect of undertakings accepted and imposed by an interim panel? If not, why not?
5. Do you agree with our proposal to allow both parties the right to appeal a decision of the Health Panel and to be notified equally of the appeal hearing, have a right to attend and be notified of the outcome? If not, why not?
6. Do you think the new regulations are:
  - better organised,
  - simplified,
  - expressed using plain English and
  - accord with regulatory best practice?

Please explain your view.

7. Do you agree with the proposed revisions to the defined terms in Part 6 of the Handbook, as set out in Annex 2? If not, please explain your view and whether you consider any amendments are required.
8. Do you think that the proposed Enforcement Decision Regulations as set out in Annex 2 provide a suitable framework that:
  - a) implements our policy positions; and
  - b) accords with our overall objectives of improving the fairness, transparency, efficiency and effectiveness of the end-to-end enforcement process?

Please explain your view.

9. Do you think that the proposed Disciplinary Tribunals Regulations as set out in Annex 2 provide a suitable framework that:
  - a) implements our policy positions; and

- b) accords with our overall objectives of improving the fairness, transparency, efficiency and effectiveness of the end-to-end enforcement process?

Please explain your view.

10. Do you think that the proposed Interim Orders, Suspension and Disqualification Regulations as set out in Annex 2 provide a suitable framework that:

- a) implements our policy positions; and
- b) accords with our overall objectives of improving the fairness, transparency, efficiency and effectiveness of the end-to-end enforcement process?

Please explain your view.

11. Do you think that the proposed Health Panel and Procedure Regulations as set out in Annex 2 provide a suitable framework that:

- a) implements our policy positions; and
- b) accords with our overall objectives of improving the fairness, transparency, efficiency and effectiveness of the end-to-end enforcement process?

Please explain your view.

12. Do you think the guidance has struck the right balance between the public interest in ensuring open justice and transparency and a barrister's rights, including those under the European Convention on Human Rights? Please explain your view.

13. Do you have any general feedback on the guidance on access to tribunal documents by non-parties? We welcome as much detail as you can provide.

14. Do you have any feedback about the EIAs we have conducted? Are any other equality impacts we should consider, beyond those set out in the EIAs? Where possible, please provide evidence.

15. Are there any other potential data protection or privacy issues raised by the new regulations that you think we should be aware of? Where possible, please provide evidence.