Annex 1

Bar Standards Board Enforcement Decision Regulations 2027

Introduction

These Regulations set out how we assess reports and investigate allegations which may indicate a potential breach of any regulatory obligation or require regulatory action, and what regulatory decisions are available at the conclusion of an investigation. These Regulations also set out the operation of the administrative sanction appeal procedure and the determination by consent procedure.

They apply to practising barristers, pupils, other BSB regulated persons and entities, and unregistered barristers.

This introduction does not form part of the BSB Enforcement Decision Regulations 2027.

1. Citation and commencement

1.1 These Regulations shall be known as the 'BSB Enforcement Decision Regulations 2027' and have been approved as an alteration to the regulatory arrangements of the Bar Council as an approved regulator by the Legal Services Board under Schedule 4, Part 3 of the Legal Services Act 2007.

1.2 These Regulations shall come into effect on [1 February] 2027 and shall also apply to all *reports* received by the *BSB* prior to that date under the Regulations then applying, and any step taken in relation to any *report* or *allegation* pursuant to those Regulations shall be regarded as having been taken pursuant to the equivalent provisions of these Regulations.

2. Interpretation and authorisation

2.1 In these Regulations the words and expressions which are italicised shall be interpreted in accordance with the definitions in ~~the~~ Part 6 of the *Handbook.*

2.2 In these Regulations, any reference to the singular shall include the plural and vice versa.

2.3 The *BSB* shall have the power to delegate to any person, group or body any function or power exercisable by the *BSB* or *an authorised decision-maker* under these Regulations; any such delegation must be in writing and may be either or both retrospective and prospective, and either or both general and for a particular purpose.

2.4 The *President* shall have the power to authorise any person, group or body to fulfil any function or exercise any power exercisable by the *President* under these Regulations; any such authorisation given must be in writing and may be either or both retrospective and prospective, and either or both general and for a particular purpose.

3. Initial assessment of *reports*

3.1 The *BSB* may assess any *report* which comes to, or is brought to, its attention in respect of an *applicable person* to decide:

(a) whether or not there are grounds for an *allegation* under regulation 8.3; and

(b) whether or not it should be referred to another person or body for investigation under regulations 4 to 7 below.

3.2 The *BSB* may gather such information as it considers appropriate from any source for the purpose of assessing a *report* under regulation 3.1.

4. Referral to the *Legal Ombudsman*

4.1 If it appears to the *BSB* that a *report* or part of a *report* raises a service issue within the jurisdiction of the *Legal Ombudsman*, the *BSB* must:

(a) refer the *report* to the *Legal Ombudsman;* or

(b) signpost the provider of the report to the *Legal Ombudsman;*

5. Referral where *applicable person* acting in part-time or temporary judicial or quasi-judicial capacity

5.1 If it appears to the *BSB* that a *report* relates to an *applicable person's* conduct in a part-time or temporary judicial or quasi-judicial capacity, the *BSB* must:

(a) refer the report to an appropriate body including:

(i) the person or body responsible for the appointment of the *applicable person* to the judicial or quasi-judicial office concerned;

(ii) the Judicial Conduct Investigations Office; or

(iii) another person or body responsible for considering such reports; and

(b) request notification of the outcome of the appropriate body's consideration as soon as it has been dealt with.

5.2 Where the appropriate body refuses to deal with the *report*; or the *BSB* considers that the appropriate body has not dealt with it within a reasonable time or fully or satisfactorily; or it appears that there is no appropriate body, the *BSB* may consider the *report* in accordance with these Regulations.

5.3 When the appropriate body has dealt with the *report*, the *BSB* may consider the *report* in accordance with these Regulations and may consider any finding made and any action taken by the appropriate body.

5.4 The *BSB* must not consider or take action in relation to a *report* arising in substance from dissatisfaction or disagreement with anything decided, done or said by the *applicable person* in the proper exercise of their judicial or quasi-judicial functions.

6. Referral where *applicable person* holds full-time judicial office

6.1 Where it appears to the *BSB* that the *report* relates to the conduct of an *applicable person* who, since the events giving rise to the report took place, has been appointed to and continues to hold full-time judicial office and has ceased to practise, the *BSB* shall not consider the *report* further and must direct the person from whom the *report* is received to the Lord Chancellor or the Judicial Conduct Investigations Office or to such other person or appropriate body with responsibility for addressing complaints about judges.

7. Referral to another body

7.1 Where it appears to the *BSB* that a *report* in respect of an *applicable person* might more appropriately be dealt with by another body (e.g. an *Inn*, Circuit, employer, a complaint handling body or any other professional or regulatory body), the *BSB* may refer the *report* to such other body.

7.2 If, having referred a *report* to another body under regulation 7.1, the *BSB* subsequently considers that the *report* has not been dealt with by that other body within a reasonable time or fully or satisfactorily, the *BSB* may consider the *report* in accordance with these Regulations and may consider any finding made and any action taken by the other body.

8. Treating a *report* as an *allegation*

8.1 The *BSB* may carry out such investigations, and in doing so may exercise any of its investigative powers, as it considers appropriate:

(a) to determine whether to treat a *report* as an *allegation* under regulation 8.3; or

(b) in its consideration of an *allegation* at any time until a decision is made under regulation 12 or regulation 13.

8.2 As soon as reasonably practicable after commencing an investigation under regulation 8.1, the *BSB* will notify the *applicable person* in writing unless and to the extent that it considers that it would not be in the public interest to do so.

8.3 Where the *BSB,* having completed the initial assessment of the *report* and any investigations under regulation 8.1, and having regard to the factors in regulation 8.4, considers that a *report*:

(a) discloses a potential breach of any *regulatory obligation* by an *applicable person*; or

(b) potentially satisfies the *disqualification condition*

the *BSB* may treat the *report* as an *allegation*.

8.4 In determining whether to treat a *report* as an *allegation* under regulation 8.3, the *BSB* must have regard to:

(a) whether the conduct disclosed in the *report* or its consequences presents sufficient risk to the *regulatory objectives* to justify further action;

(b) whether the conduct disclosed in the *report* can be properly and fairly investigated; and

(c) whether the conduct disclosed in the *report* could not more appropriately be dealt with under one or more of the provisions set out at regulations 4 to 7 above.

8.5 If the *BSB* decides not to treat a *report* as an *allegation* under regulation 8.3, the *BSB* must give notice of that decision in writing to any *applicable person* to whom notice has been given under regulation 8.2

9. Investigation of *allegations*

9.1 Following a decision to treat a *report* as an *allegation* under regulation 8.3, the *BSB* may carry out such further investigations under regulation 8.1(b) as it considers appropriate.

9.2 If a new *report* comes to light during an investigation of an *allegation* under regulation 9.1 which meets the criteria in regulation 8.4, the *BSB* may treat it as a new *allegation* and investigate it in accordance with these regulations.

9.3 The *BSB* may defer further investigation of the original *allegation* until a new *report* or *allegation* has been investigated.

10. Notice of *allegations* to the *applicable person*

10.1 Before any decision is made under regulation 12, the *BSB* shall give notice to the *applicable person:*

(a) setting out the *allegation* and the facts in support;

(b) summarising any regulatory or other history relating to the *applicable person*, which is relevant to the *allegation;*

(c) accompanied by any evidence or documentation that the *BSB* considers to be relevant to the *allegation*;

(d) inviting the *applicable person* to respond with written representations and any supporting evidence within such period as the *BSB* may specify (which must be no less than 14 days from the date of the notice); and

(e) notifying *the applicable person* that any representations or extracts of any representations received from them may be shown to any person related to the subject-matter of the *allegation* for the purposes of the investigation.

11. Additions, amendments and withdrawal of *allegations*

11.1 Before any decision is made under regulations 12 or 13, an *authorised decision-maker* or an *Independent Decision-Making Panel* may add to, or amend, any *allegations* referred to them for determination, without inviting a further response from the *applicable person* under regulation 10.1, provided that:

(a) any additions or amendments arise out of substantially the same facts as the original *allegation* or *report*; and

(b) the additions or amendments can be made without any unfairness to the *applicable person*.

11.2 No further investigation or opportunity to respond is required where the subject matter of any new *allegation* has already been investigated by the *BSB* and the *applicable person* has already been given an opportunity to respond to it during the original investigation.

11.3 The *BSB* may withdraw any *allegation* at any time before a decision is made under regulations 12 or 13 and treat it as if a decision under regulation 8.3 had not been made.

12. Possible outcomes of the investigation

12.1 An *authorised decision-maker* may refer an *allegation* to an *Independent Decision-Making Panel* for a decision under regulation 13 or make a decision in relation to an *allegation* under regulation 12.2 or 12.6.

12.2 Save where referred to an *Independent Decision-Making Panel* under regulation 12.1, an *authorised decision-maker* may decide:

(a) that the conduct alleged did not constitute a breach of any *regulatory obligation;*

(b) that there was insufficient evidence of a breach of any *regulatory obligation*;

(c) that the conduct alleged did constitute a breach of a *regulatory obligation* but that, in all the circumstances, no enforcement action should be taken in respect of the breach;

(d) that the conduct alleged did constitute a breach of a *regulatory obligation* and that the breach should be dealt with by the imposition of an *administrative sanction* in accordance with regulation 15; or

(e) to refer an *allegation* for *disciplinary action* in accordance with regulation 12.3.

12.3 An *authorised decision-maker* may refer an *allegation* for *disciplinary action* under regulation 12.2(e), subject to regulation 12.4 below, where they decide that:

(a) the conduct alleged may constitute a breach of a *regulatory obligation;* and

(b) if the breach were to be proved, an *administrative sanction* would not be appropriate in all the circumstances; and

(c) the subject matter of the *allegation* against an *applicable person* involves:

(i) any criminal conviction;

(ii) a breach of any *regulatory obligation* in Part 3 or 4 of the Handbook or any successor regulations;

(iii) any failure to pay an administrative fine within the relevant time; or

(iv) a failure to comply with any requirements of a sanction imposed or other orders following the conclusion of *disciplinary action.*

12.4 An *allegation* shall be referred for *disciplinary action* under regulation 12.2(e) only where an *authorised decision-maker* is satisfied that:

(a) there is *a realistic prospect of a finding of professional misconduct being made* or there is *a realistic prospect of the disqualification condition being satisfied*; and

(b) having regard to the risk to the *regulatory objectives*, it is in the public interest to pursue *disciplinary action.*

12.5 When an *authorised decision-maker* makes a decision under regulation 12.2(a) to (c), the *authorised decision-maker* may issue the *applicable person* with advice.

12.6 Save where referred to an *Independent Decision-Making Panel* under regulation 12.1, in the case of a *non-authorised individual* (other than an unregistered barrister, a manager of a *BSB* entity or a *registered European lawyer* who does not have a current practising certificate) who at the time of the alleged conduct was an employee of a *BSB authorised person,* an *authorised decision-maker* may only:

(a) decide that no further action should be taken in relation to the *allegation;* or

(b) refer the *allegation* to the *Disciplinary Tribunal* to form the subject matter of a *disqualification application*.

13. Decisions of an *Independent Decision-Making Panel*

13.1 Schedule 1 to these regulations sets out the composition of an *Independent Decision-Making Panel* and the proceedings of an *Independent Decision-Making Panel*.

13.2 Subject to regulation 13.6, where an *allegation* has been referred to an *Independent Decision-Making Panel* under regulation 12.1, the *Independent Decision-Making Panel* may decide, on the evidence before it:

(a) that the conduct alleged did not constitute a breach of any *regulatory obligation*;

(b) that there was insufficient evidence of a breach of any *regulatory obligation;*

(c) that the conduct alleged did constitute a breach of a *regulatory obligation*, but that, in all the circumstances, no enforcement action should be taken in respect of the breach;

(d) that the conduct alleged did constitute a breach of a *regulatory obligation* and that the breach should be dealt with by an *administrative sanction* in accordance with regulation 14; or

(e) to refer an *allegation* for *disciplinary action* in accordance with regulation 13.3.

13.3 When an *Independent Decision-Making Panel* decides, on the evidence before it that:

(a) there is *a realistic prospect of a finding of professional misconduct being made* or there is *a realistic prospect of the disqualification condition being satisfied*; and

(b) having regard to the risk to the regulatory objectives, it is in the public interest to pursue *disciplinary action*

the *allegation* must be referred for *disciplinary action*.

13.4 In conjunction with a decision under regulation 13.2, an *Independent Decision-Making Pane*l may recommend that:

(a) the *BSB* consider referring the *applicable person* under the BSB Health Panel and Procedure Regulations 2027;

(b) the *BSB* consider whether to take other regulatory action; or

(c) the *BSB* consider whether to make a referral for an interim order under regulation 6.1 of the BSB Interim Orders Regulations 2027.

13.5 When an *Independent Decision-Making Pane*l reaches a decision under regulation 13.2(a) to (c), the *Independent Decision-Making Pane*l may issue the *applicable person* with advice.

13.6 In the case of a *non-authorised individual* (other than an unregistered barrister, a manager of a *BSB* entity or a registered European lawyer who does not have a current practising certificate) who at the time of the alleged conduct was an employee of a *BSB authorised person,* where an *allegation* has been referred to an *Independent Decision-Making Panel* under regulation 12.1, an *Independent Decision-Making Panel* may only:

(a) decide that no further action should be taken in relation to the *allegation;* or

(b) refer the *allegation* to the *Disciplinary Tribunal* to form the subject matter of a *disqualification application*.

13.7 Prior to making a decision under regulation 13.2 or 13.6, an *Independent Decision-Making Pane*l may request further investigation be carried out by the *BSB* under regulation 8.1(b).

14. *Administrative sanctions*

14.1 An *authorised decision-maker* or an *Independent Decision-Making Panel* may decide to impose an *administrative sanction* on an *applicable person* under regulation 12.2(d) or regulation 13.2(d) respectively where they consider that:

(a) there is sufficient evidence of a breach of any *regulatory obligation* by that *applicable person*; and

(b) the imposition of an *administrative sanction* is proportionate and sufficient in the public interest.

14.2 In determining the nature and level of any *administrative sanction* to be imposed, an *authorised decision-maker* or an *Independent Decision-Making Panel* must have regard to any published *BSB* policy that appears to be relevant.

14.3 The maximum level of a fine which can be imposed by an *authorised decision-maker* or an *Independent Decision-Making Panel* as an *administrative sanction* is:

(a) £1,000 (one thousand pounds) where the fine is to be imposed on an *applicable person* who is not a *BSB entity*; or

(b) £1,500 (one thousand and five hundred pounds) where the fine is to be imposed on a *BSB entity*.

14.4 Any decision to impose an *administrative sanction* will be recorded by the *BSB* and may, where appropriate, be considered as part of continued monitoring or other regulatory action but will not be disclosed to any third parties except in accordance with regulation 19.2.

14.5 The *applicable person* may appeal a decision of an *authorised decision-maker* or an *Independent Decision-Making Panel* to impose an *administrative sanction* in accordance with regulation 17.

15. *Determination by consent procedure*

15.1 Where an *authorised decision-maker* or an *Independent Decision-Making Panel* is satisfied that an *allegation* should be referred for *disciplinary action* under regulation 12.2(e) or regulation 13.2(e), such an *allegation* may, with the consent of the *applicable person* against whom the *allegation* is made, be finally determined as a charge of professional misconduct instead by an *Independent Decision-Making Panel* under the *determination by consent procedure*.

15.2 An *authorised decision-maker* or an *Independent Decision-Making Panel,* in deciding to refer an *allegation* for final determination as a charge of professional misconduct under the *determination by consent procedure*, must consider all the circumstances, and may only reach such a decision if:

(a) the *applicable person* has provided their express written consent to the case being dealt with by an *Independent Decision-Making Panel* under the *determination by consent procedure*; and

(b) an *authorised decision-maker* or an *Independent Decision-Making Panel* considers that:

(i) there are no substantial disputes of fact which can only fairly be resolved by oral evidence being taken;

(ii) having regard to the risk to the *regulatory objectives*, it is in the public interest to resolve the *allegation* under the *determination by consent procedure*; and

(iii) the potential professional misconduct if proved, combined with the *applicable person*'s previous disciplinary history, does not appear to be such as to warrant a period of *suspension* or disbarment, the withdrawal of an authorisation or licence (as appropriate) or the imposition of a *disqualification order* (or equivalent by another *approved regulator*).

15.3 Where an *authorised decision-maker* or an *Independent Decision-Making Panel* has decided to refer an *allegation* to the *determination by consent procedure* to be finally determined as a charge of professional misconduct, an *authorised decision-maker* or an *Independent Decision-Making Panel* (as the case may be) may terminate the *determination by consent procedure* at any time if they no longer consider that the requirements of regulation 15.2 are satisfied, or for any other good reason.

15.4 An *Independent Decision-Making Panel* may impose on an *applicable person against* whom a charge of professional misconduct has been found proved under the *determination by consent procedure,* any one or more the following:

(a) an order to pay a fine to the *BSB* (the amount of such fine to be determined having regard to the relevant sanctions guidance) on such terms as to payment as the *Independent Decision-Making Panel* thinks fit;

(b) the imposition of any conditions on their licence or authorisation (where appropriate);

(c) a reprimand by the *BSB*;

(d) advice by the *Independent Decision-Making Panel* as to their future conduct; and

(e) an order to complete (or, in the case of a *BSB entity*, an order to procure that any relevant *managers* or employees complete) continuing professional development of such nature and duration as an *Independent Decision-Making Panel* shall direct and to provide satisfactory proof of compliance with this order to the *BSB*.

15.5 In determining what sanction, if any, to impose under the *determination by consent procedure,* an *Independent Decision-Making Panel* shall have regard to the *Sanctions Guidance* and any relevant policy or guidelines issued by the *BSB* or by *BTAS* from time to time.

15.6 An *Independent Decision-Making Panel* may not make an award of costs when dealing with an *allegation* under the *determination by consent procedure*.

15.7 The *BSB* must publish any finding and sanction and a report of the decision resulting from the *determination by consent procedure* on its website within 14 days unless, on an application by the *applicable person*, an *Independent Decision-Making Panel* directs that it is not in the public interest to publish the finding or sanction or report of the decision.

15.8 The *BSB* must not publish any finding or report of the decision resulting from the *determination by consent procedure* on its website where all the charges have been dismissed, unless the *applicable person* so requests.

15.9 If the *determination by consent procedure* fails to conclude with a finding and sanction to which the *applicable person* consents, then an *allegation* may be referred to a three-person *Disciplinary Tribunal*.

15.10 If the *applicable person* accepts the outcome of the *determination by consent procedure*, no one may appeal against it.

16. *Disciplinary Tribunal*

16.1 Where a referral is made by an *authorised decision-maker* or an *Independent Decision-Making Panel* to the *Disciplinary Tribunal* for *disciplinary action*, such *disciplinary action* will be conducted in accordance with such procedures as the *BSB* may prescribe from time to time in these Regulations or the BSB Disciplinary Tribunals Regulations 2027.

16.2 At the same time as *referring* an *allegation* to form the subject matter of a disciplinary charge or a *disqualification application* before a *Disciplinary Tribunal*, an *authorised decision-maker* or an *Independent Decision-Making Panel must* decide whether a three-person panel or a five-person panel is to be constituted.

16.3 In reaching a decision under regulation 16.2, an *authorised decision-maker* or an *Independent Decision-Making Panel* shall consider the sanction which it considers is likely to be imposed on the *applicable person* if the charge or *disqualification application* is proved, having regard to:

(a) the *Sanctions Guidance*; and

(b) the previous disciplinary record of the *applicable person*.

16.4 In reaching a decision under regulation 16.2, an *authorised decision-maker* or an *Independent Decision-Making Panel* may only decide~~irect~~ that a five-person panel is to be constituted if it considers:

(a) that the *allegation* involves a conviction for dishonesty or deception; or

(b) having regard to the *Sanctions Guidance,* that in all the circumstances one of the following sanctions is likely to be imposed:

(i) a sanction of disbarment or *suspension* from *practice* for more than twelve months;

(ii) a sanction of indefinite *disqualification* or *disqualification* for a defined term of more than twelve months; or

(iii) a sanction of a *BSB entity* having its authorisation or licence revoked or *suspended* for a period of more than twelve months.

16.5 An *authorised decision-maker* or an *Independent Decision-Making Panel* must inform the *applicable person* of the decision~~irection~~ that it has made pursuant to regulation 16.2.

16.6 There is no appeal against the decision under regulation 16.2 to refer a matter to a three or a five-person panel.

16.7 An *authorised decision-maker* or an *Independent Decision-Making Panel* may:

(a) refer to the same *Disciplinary Tribunal* any *allegations* or *disqualification applications* relating to one or more *applicable person* which they consider may conveniently be dealt with together; and

(b) refer any additional *allegations* or *disqualification applications* relating to the same *applicable person* to the *Disciplinary Tribunal* which is dealing with the original *allegation* or *disqualification application* (as the case may be).

16.8 When an *authorised decision-maker* or an *Independent Decision-Making Panel* has decided~~irected~~ that an *allegation* shall form the subject matter of a charge or *disqualification application* before a *Disciplinary Tribunal*, the *BSB* is responsible for bringing the charge or *disqualification application* and pursu~~rosecut~~ing that charge before such *Disciplinary Tribunal*.

17. Appeals from *administrative sanctions*

17.1 An appeal from a decision by an *authorised decision-maker* or an *Independent Decision-Making Panel* to impose an *administrative sanction* is to an appeal panel nominated by the *President* in the same composition as a three-person *disciplinary tribunal* panel constituted under regulation 13.3 of the BSB Disciplinary Tribunals Regulations 2027.

17.2 If an *applicable person* wishes to appeal a decision in accordance with regulation 17.1, they must send to the *BSB* within 28 days of the imposition of the *administrative sanction*:

(a) a written notice of appeal identifying the decision they wish to appeal, their grounds of appeal and the outcome they are seeking; and

(b) a written statement confirming whether the *applicable person* requires their appeal to be disposed of at an oral hearing.

17.3 The notice of appeal must be accompanied by an appeal fee as set by the *BSB* from time to time.

17.4 If the *applicable person* does not expressly request an oral hearing, the appeal will be dealt with by the appeal panel on a review of the papers.

17.5 Where the appeal is to be dealt with by an appeal panel on the papers, the *BSB* will provide *BTAS* and the *applicable person* with a paginated bundle of the correspondence and other documents on its files which are material to the original decision as soon as reasonably practicable.

17.6 Where the appeal is to be dealt with by an appeal panel at an oral hearing then:

(a) at least 5 working days before the hearing, the *BSB* will provide *BTAS* and the *applicable person* with a paginated bundle of the correspondence and other documents on its files which are material to the original decision; and

(b) the *applicable person* and the *BSB* may be represented at the hearing.

17.7 The appeal is a review of the original decision, not a re-hearing, and the appeal panel must decide whether or not to set aside, or to vary the original decision.

17.8 If the appeal panel allows the appeal in whole or in part, the appeal panel may direct that any administrative fine or appeal fee already paid by the *applicable person* be refunded either in whole or in part, but the appeal panel has no power to award costs.

17.9 The decision of an appeal panel is final and shall not be subject to any further appeal or reconsideration.

18. Reconsideration of decisions

18.1 Where an administrative error, accidental slip or omission in, or in relation to, any decision under these Regulations comes to the attention of the *BSB* or an *Independent Decision-Making Panel*, an *authorised decision-maker* or an *Independent Decision-Making Panel* may correct the error without the need to undergo a reconsideration under this regulation.

18.2 An *authorised decision-maker* or an *Independent Decision-Making Panel* may reconsider any decision made by an *authorised decision-maker* or an *Independent Decision-Making Panel* respectively under these Regulations in relation to an *allegation*:

(a) where new evidence becomes available which leads it to conclude that it should do so; or

(b) for some other good reason.

18.3 Prior to reconsideration of a decision of an *Independent Decision-Making Panel* under regulation 18.2, the Chair or Vice-Chair of the *Independent Decision-Making Body*, or another single member nominated by the Chair or Vice-Chair will:

(a) decide whether the criteria for reconsideration in regulation 18.2 are met; and

(b) if the criteria are met, refer the decision to an *Independent Decision-Making Panel* for reconsideration.

18.4 The decision under regulation 18.2 is final.

18.5 Following any reconsideration, an *authorised decision-maker* or an *Independent Decision-Making Panel* may make any decision or take any further or different action under these Regulations as they think fit, as if any earlier decision had not been made.

19. Confidentiality

19.1 The *BSB* must keep *reports* and *allegations* assessed or investigated under these Regulations confidential and must not disclose the fact that a *report* exists, or details of the *report* or of its treatment as an *allegation* or otherwise, or of its *disposal* save as specified in the *Enforcement Regulations* or as otherwise required by law.

19.2 The *BSB* may disclose or publish information or documents relating to any *report* or *allegation* assessed or investigated under these Regulations:

(a) for the purpose of any of the *BSB's* regulatory functions;

(b) for the purpose of keeping the *applicable person,* or any source of information relating to the *applicable person,* informed of the progress of the consideration of a *report* or *allegation;*

(c) to the extent necessary for the purpose of seeking evidence or information from third parties as part of any assessment or investigation under these Regulations;

(d) for the purpose of publicising any forthcoming public hearing under the Disciplinary Tribunals Regulations 2027;

(e) where the *applicable person* consents;

(f) in response to a request from the selection panel or a member of its secretariat in respect of an application by a *barrister* for appointment as King's Counsel; or from any body responsible for the appointment of judges in respect of an application for judicial appointment; or from some other body or a *BSB authorised individual* for a *certificate of good standing* in respect of a *barrister;*

(g) for the purposes of providing examples of the types of behaviour that may constitute breaches of *regulatory obligations* either externally or internally within the *BSB*, provided that where disclosure occurs in these circumstances although details of the individual *reports* or *allegations* may be published, any relevant party's identities will remain anonymous;

(h) where the *BSB* considers it is in the public interest to do so; or

(i) to the *Commissioner for Conduct* in relation to any reports or allegations of bullying, harassment or sexual harassment, for the purpose of keeping them informed of the progress of the consideration of a *report* or *allegation*.

20. Burden and standard of proof

20.1 In reaching any decision under these Regulations in relation to a *report* or *allegation*, the standard of proof applied by the *BSB*, an *authorised decision-maker* and an *Independent Decision-Making Panel* will be the civil standard of proof, namely the balance of probabilities, except when regulation 20.2 applies.

20.2 An *authorised decision-maker* or an *Independent Decision-Making Panel* must take into account that the criminal standard of proof will apply when referring an *allegation* for disciplinary action under regulation 12.2(e) or regulation 13.2(e) respectively, and apply the criminal standard of proof when deciding a charge of professional misconduct under the *determination by consent procedure,* in relation to:

(a) *an allegation* or charge where the conduct alleged occurred prior to 1 April 2019, including where the same alleged conduct continued beyond 31 March 2019 and forms the basis of a single *allegation* or *charge of* professional misconduct;

(b) whether the *disqualification condition* has been established, in relation to an *applicable person's* alleged breach of duty or other conduct which occurred prior to 1 April 2019, including where the same alleged conduct continued beyond 31 March 2019;

(c) Where facts relating to an *allegation* are in dispute, the burden of proving such facts will rest on the *BSB.*

21. *BSB* strategy, policy and guidance

21.1 In exercising its powers under these Regulations, the *BSB*, any *authorised decision-maker* and any *Independent Decision-Making Panel* must have regard to the *BSB's* enforcement strategy and any published *BSB* policy and guidance that appear to be relevant.

22. Relationship with other *BSB* regulations

22.1 Nothing in these Regulations will prevent the immediate operation of the BSB Interim Orders Regulations 2027 or the BSB Health Panel and Procedure~~s~~ Regulations 2027, where appropriate.

Schedule 1

Proceedings and Composition of an *Independent Decision-Making Panel*

1. An *Independent Decision-Making Panel:*

    (a) shall consist of three members of the *Independent Decision-Making Body* and shall have a majority of lay members and one barrister member;

    (b) may, at any time, invite any person to attend an *Independent Decision-Making Panel* meeting in an advisory or consultative capacity.

2. *Independent Decision-Making Panel* meetings:

    (a) may be held in person, by email, by telephone or via video-conference;

    (b) shall be held:

        (i) in private; and

        (ii) at a frequency to be determined by the *BSB.*

3. Decisions of *Independent Decision-Making Panels* must be recorded in writing and provided to the relevant person.

Bar Standards Board Disciplinary Tribunals Regulations 2027

Introduction

These regulations govern the Disciplinary Tribunal process which is operated and administered by BTAS. The regulations confer powers on BTAS and the Disciplinary Tribunal in relation to case management, procedural applications and final hearings, as well as providing rights of appeal to the High Court. The regulations set out the roles, powers and duties of all parties and the Disciplinary Tribunal in disciplinary proceedings. BTAS manages the disciplinary process and takes decisions independently of the BSB.

They apply to practising barristers, pupils, other BSB regulated persons and entities, and unregistered barristers.

This introduction does not form part of the BSB Disciplinary Tribunals Regulations 2027.

1. Citation and commencement

1.1 These regulations shall be known as the 'BSB Disciplinary Tribunals Regulations 2027' and have been approved as an alteration to the regulatory arrangements of the Bar Council as an approved regulator by the Legal Services Board under Schedule 4, Part 3 of the Legal Services Act 2007.

1.2 These Regulations will come into effect on [1 February] 2027 and, subject to regulation 1.3 below, shall also apply to all cases referred to a *Disciplinary Tribunal* prior to that date under the Regulations then applying, and any step taken in relation to any *Disciplinary Tribunal* pursuant to those Regulations shall be regarded as having been taken pursuant to the equivalent provisions of these Regulations.

1.21.3 Where a *Convening Order* has been issued in relation to a case on or before 31 January 2027 under the Regulations then applying and that case has not been concluded or disposed of when these Regulations come into effect then the Regulations applying as at 31 January 2027 shall apply to that case until such time as it is concluded or disposed of.

2. Application, interpretation and authorisation

2.1 These Regulations apply following the referral of an allegation to a *Disciplinary Tribunal* under the Bar Standards Board Enforcement Decision Regulations 2027.

2.2 In these Regulations, the words and expressions which are italicised shall be interpreted in accordance with the definitions in Part 6 of the *Handbook*.

2.3 In these Regulations, any reference to the singular shall include the plural and vice versa.

2.4 The *BSB* shall have the power to delegate to any person, group or body any function or power exercisable by the *BSB* or *an authorised decision-maker* under these Regulations; any such delegation must be in writing and may be either or

both retrospective and prospective, and either or both general and for a particular purpose.

2.5 The *President* shall have the power to authorise any person, group or body to fulfil any function or exercise any power exercisable by the *President* under these Regulations; any such authorisation given must be in writing and may be either or both retrospective and prospective, and either or both general and for a particular purpose.

2.6 Any duty or function or step which, under these regulations, is to be discharged or carried out by the *President* may, if they are unable to act due to absence or to any other reason, be discharged or carried out by the Registrar of *BTAS*, the Chair of the *Disciplinary Tribunal*, or by any other person nominated in writing by the *President* for any specific purpose.

2.7 The powers and functions conferred by these Regulations on a *Directions Judge* may be exercised by any person nominated by the *President*, including any person designated in the *Convening Order* as Chair of the *Disciplinary Tribunal* appointed to hear and determine a charge or *disqualification application* against the *Respondent*.

3. Overriding objective

3.1 The overriding objective of these Regulations is to enable the *Disciplinary Tribunal* to deal with cases justly and proportionately.

3.2 Dealing with cases justly and proportionately includes, so far as practicable:

(a) ensuring cases are dealt with efficiently and expeditiously;

(b) saving expense;

(c) dealing with cases in ways which are proportionate to the nature, importance and complexity of the issues.

3.3 The *Disciplinary Tribunal,* the Chair of a *Disciplinary Tribunal, BTAS* and *Directions Judges* must seek to give effect to the overriding objective when they:

(a) exercise any power given by these Regulations;

(b) interpret any regulation.

3.4 The *parties* are required to help the *Disciplinary Tribunal,* the Chair of a *Disciplinary Tribunal*, *BTAS* and *Directions Judges* further the overriding objective.

4. Regulation of own procedure

4.1 Subject to these Regulations and any other enactment the *Disciplinary Tribunal* may regulate its own procedure.

4.2 The *Disciplinary Tribunal* may dispense with any requirements of these Regulations in respect of notices, statements, witnesses, service or periods of time in any case where it appears to the *Disciplinary Tribunal* to be just to do so.

4.3 Practice notices and practice directions may be promulgated under the authority of the *President* following consultation with the *BSB*.

5. Service and filing of charge or *disqualification application*

5.1 Not later than ten weeks after the date on which an *authorised decision-maker* or an *Independent Decision-Making Panel* decides to refer an allegation to a *Disciplinary Tribunal* under the Bar Standards Board Enforcement Decision Regulations 2027 the *BSB* must ensure that a copy of the charge or *disqualification application* is:

(a) served on the relevant *Respondent*, together with a copy of these Regulations; and

(b) at the same time, filed with *BTAS*.

6. Service and filing of evidence

6.1 As soon as practicable after the service of the charge or *disqualification application* on the *Respondent*, the *BSB* must serve on the *Respondent* and file with *BTAS* the evidence it intends to rely on.

6.2 Where some or all of the evidence referred to in regulation 6.1 is not served on the *Respondent* within 28 days of the service of the charge or *disqualification application*, the *BSB* must provide to the *Respondent* and *BTAS* within that period details of:

(a) the evidence that is still being sought; and

(b) when it is expected that evidence will be served.

6.3 Nothing in regulation 6.1 or 6.2 shall prevent a *Disciplinary Tribunal* or *Directions Judge* from receiving evidence which has not been served on the *Respondent* in accordance with regulations 6.1 or 6.2, provided that the *Disciplinary Tribunal* or *Directions Judge* is of the opinion:

(a) the *Respondent* would not be materially prejudiced; or

(b) that the evidence is accepted on such terms as are necessary to ensure that no such prejudice occurs.

7. Case management and directions

7.1 Following the service of a charge or *disqualification application* under regulation 5.1, *BTAS* shall be responsible for case management in accordance with these Regulations.

7.2 Upon the sooner of:

(a) the service and filing of evidence under regulation 6.1; or

(b) the *BSB* writing under regulation 6.2,

BTAS shall send a case management questionnaire to the *parties*.

7.3 The case management questionnaire may include requirements for the *parties* to confirm, address or otherwise identify any matter which *BTAS* considers conducive to the management of the case.

7.4 *BTAS* shall require the *parties* to complete and return the case management questionnaire within 21 days or such other time as it considers conducive to the management of the case.

7.5 Upon the expiry of the deadline required under regulation 7.4 for completion of the case management questionnaire, regardless of whether both *parties* have responded, a *Directions Judge* shall set and send to the *parties* case management directions, which may be made with or without an oral hearing.

7.6 ~~Directions shall be made and a~~Any oral hearing ~~held~~ under regulation 7.5 shall be held as soon as practicable ~~no later than 21 days from~~ after the expiry of the deadline required under regulation 7.4.

7.7 A *Directions Judge,* the Chair of the *Disciplinary Tribunal* or a *Disciplinary Tribunal* may, upon the application of a *party*, direct that the identity of a witness should not be revealed in public.

7.8 Directions under regulation 7.5 may include a direction as to the measures for giving evidence under regulation 20.3 or the ~~prohibition of~~ cross-examination on behalf of~~by~~ a *Respondent* under regulation 20.4.

7.9 In the case of any witness, where the allegation against the *Respondent* is of a sexual nature and the witness was the alleged victim, their identity will not be revealed to the public unless:

(a) the witness requests their identity be made public; or

(b) ~~that~~ that would be likely to cause the *Respondent* to suffer substantial prejudice in the conduct of their defence~~would cause a material risk of prejudice to the *Respondent*~~.

7.10 *BTAS* shall publish details of the case which may include the *Respondent's* identity and the charge or *disqualification application* ~~N~~no sooner than 7 days following the setting of case management directions under regulation 7.5, unless a *Directions Judge* or the Chair of the *Disciplinary Tribunal* decides in exceptional circumstances that publication should occur ~~or at~~ such other time or in part or not at all as may be determined. ~~by a *Directions Judge* or the Chair of the *Disciplinary Tribunal*, save in exceptional circumstances, *BTAS* shall publish details of the case which may include the *Respondent's* identity and the charge or *disqualification application*.~~

7.11 There shall be no right of appeal against a direction made under this regulation, though at any time before the substantive hearing a *party* may apply to *BTAS* for it to make, amend or withdraw any direction.

7.12 A *Directions Judge*, Chair of the *Disciplinary Tribunal* or *Disciplinary Tribunal* may at any stage:

(a) make, amend or withdraw a direction;

(b) list a preliminary hearing, including before making case management directions under regulation 7.5;

(c) make such directions for the management of the case or the hearing as they consider will promote dealing with the case in accordance with the overriding objective.~~;~~

~~(d) delegate administrative amendments to any directions to *BTAS*.~~

8. Non-compliance

8.1 Where a *party* has failed to comply with any direction made by a *Directions Judge*, Chair of the *Disciplinary Tribunal* or a *Disciplinary Tribunal*, or has failed to do any act within the time period specified in a direction, a *Directions Judge*, the Chair of the *Disciplinary Tribunal* or *Disciplinary Tribunal* may:

(a) exclude evidence;

(b) award costs against a *party*;

(c) draw an adverse inference.

9. Applications

9.1 At any time prior to the hearing before the *Disciplinary Tribunal*, either *party* may file with *BTAS* and serve on the other *party* an application with written submissions and any evidence in support.

9.2 The *Directions Judge*, Chair of the *Disciplinary Tribunal* or the *Disciplinary Tribunal* may determine an application under regulation 9.1 with or without a hearing.

9.3 Where a preliminary hearing takes place, a *Directions Judge* or Chair of the *Disciplinary Tribunal* may adjourn any decision to the full *Disciplinary Tribunal*.

9.4 A *Directions Judge* or Chair of the *Disciplinary Tribunal* may, at their discretion, determine any application on the papers or at an oral hearing, which may be in person or remote, and may make such directions as they consider conducive to the determination of the application which may include the service of skeleton arguments.

9.5 There shall be no right of appeal against a decision on an application under this regulation or regulation 10.

10. Applications for adjournment after the *Convening Order*

10.1 Any application by a *party* for an adjournment of the substantive hearing after the issuing of the *Convening Order* but before the date on which the hearing is scheduled to commence must be in writing and accompanied by any evidence upon which the *party* relies in support of their application.

10.2 An application under regulation 10.1 must be:

(a) submitted to the Chair of the *Disciplinary Tribunal* which has been convened to hear the case, who will decide how to determine it; and

(b) served upon the other *party*.

10.3 The Chair of the *Disciplinary Tribunal* must make reasonable attempts to seek any representations in response to the application from the other *party*.

10.4 The Chair of the *Disciplinary Tribunal* will determine the application for adjournment taking into account any response submitted by the other *party* and may:

(a) grant the adjournment;

(b) direct that the application must be renewed before the *Disciplinary Tribunal* on the first day fixed for the substantive hearing;

(c) refuse the application;

(d) make such directions as they consider appropriate for the further conduct of the case.

11. Fixing the substantive hearing date, appointing a *Disciplinary Tribunal* and issuing a *Convening Order*

11.1 Where a hearing date is not fixed when case management directions are made under regulation 7.5, as soon as practicable thereafter *BTAS* shall fix a date for the hearing.

11.2 As soon as reasonably practicable after fixing the date for the substantive hearing, and in any event no later than 28 days before the date of the substantive hearing, the *President* must issue a *Convening Order* specifying:

(a) the name and professional details of the *Respondent*;

(b) the date, time and location, whether in person or remote, of the hearing of the *Disciplinary Tribunal* at which the charge or *disqualification application* will be heard; ~~and~~

(c) the names and status (that is, as Chair, as *lay member*, as *barrister* or other) of those persons constituting the *Disciplinary Tribunal* to hear the case; and

(d) the *party's* right to represent themselves or be represented professionally, with or without instructing a solicitor.

11.3 *BTAS* shall send~~issue~~ copies of that *Convening Order* on the *parties* and the nominated members of the *Disciplinary Tribunal*.

11.4 Either *party* may, when they receive the *Convening Order*, give notice to the *President* objecting to any one or more of the members of the *Disciplinary Tribunal* and such notice must:

(a) be given as soon as is reasonably practicable;

(b) specify the grounds of objection; and

(c) be served upon the other *party*.

11.5 When the *President* receives an objection under regulation 11.4, they must, if satisfied that it is justified and subject to regulation 11.7, exercise the power conferred on them by regulation 13.7 to nominate a substitute member or members of the *Disciplinary Tribunal*, and must notify the *parties* accordingly.

11.6 When they receive a notification under regulation 11.5, either *party* may object to any substitute member or members, in the same way as they may object under regulation 11.4.

11.7 No objection to any member of the *Disciplinary Tribunal* may be made solely on the grounds they have prior knowledge of a *Respondent's* disciplinary history.

12. Appointment of Panel Secretary

12.1 *BTAS* shall appoint one or more persons ~~Panel Secretaries~~ to perform the functions of the Panel Secretary specified in these Regulations and such other functions as the *President*, *Directions Judge* or the Chair of any *Disciplinary Tribunal* may direct.

13. Composition of *Disciplinary Tribunal*s

13.1 A *Disciplinary Tribunal* must consist of either three or five persons nominated by the *President*.

13.2 A five-person *Disciplinary Tribunal* must include:

(a) a Chair, who must be a *Judge*;

(b) two *lay members*; and

(c) two *practising barristers* of not less than seven years' standing.

13.3 A three-person *Disciplinary Tribunal* must include:

(a) a Chair, who must be a King's Counsel or a *Judge;*

(b) one *lay member*; and

(c) one *practising barrister* of not less than seven years' standing.

13.4 With the exception of ~~judicial Chairs~~a *Judge*, the persons nominated by the *President* to sit on a *Disciplinary Tribunal* must be selected from the pool appointed by the *Tribunal Appointments Body*.

13.5 A person shall not be eligible to sit on a *Disciplinary Tribunal* if they were a member of the *BSB*, or any of its committees, or the *Independent Decision-Making Body* at any time when the matter was being considered by the *BSB*.

13.6 The person nominated by the *President* to be Chair of the *Disciplinary Tribunal*, may be the *Directions Judge*, unless the *Directions Judge* considers there to be any reason why they should not Chair the hearing.

13.7 At any time before the substantive hearing of the charge or *disqualification application* commences, the *President* may cancel any or all of the nominations made under these Regulations, and make such alternative nominations as, in the exercise of their discretion, they deem necessary or expedient provided that the *Disciplinary Tribunal* is properly constituted under regulation 13.2 or 13.3.

13.8 If a person nominated to sit on a *Disciplinary Tribunal* becomes unable to sit before or during the substantive hearing of the charge or *disqualification application*, ~~or the *President* cancels any or all of the nominations to the *Disciplinary Tribunal* under regulation 13.7,~~ the *President* must nominate another person so the *Disciplinary Tribunal* is properly constituted under regulation 13.2 or 13.3.

13.9 Where alternative nominations are made under regulation 13.7 or 13.8 after the *Convening Order* has been issued:

(a) the *President* must notify the *parties* of the identity of such alternative nominations as soon as is reasonably practicable;

(b) either *party* may object to such substitute members in the same way as they may object under regulation 11.4 and 11.6.

13.10 The proceedings of a five-person *Disciplinary Tribunal* shall not be invalidated on the sole ground that after the *Convening Order* has been issued under regulation 11.2 one or more members becomes unable to act or is *disqualified* from acting provided that:

(a) the Chair and at least one *lay member* and one barrister member are still able to act and are present throughout the substantive hearing; and

(b) the number of members present throughout the hearing of the charge or *disqualification application* is not less than three.

13.11 A member of a *Disciplinary Tribunal* who has been absent for any time during a hearing shall take no further part in the proceedings.

13.12 The validity of the proceedings of a *Disciplinary Tribunal* shall not be affected by a defect in the appointment of a member.

14. Hearing in public

14.1 Subject to regulation 14.2, any hearing, which may be in person or remote, ~~takes place~~ following publication under regulation 7.10 must be in public, unless it is ordered by a *Directions Judge,* the Chair of the *Disciplinary Tribunal* or the *Disciplinary Tribunal* that all or part of the hearing is not to be held in public.

14.2 Any hearing of a review of an *interim order* or undertaking under regulation 24 shall not be in public unless so requested by the *Respondent*.

15. Joinder

15.1 Unless there is a risk of prejudice to the fairness of the proceedings, a *Directions Judge,* the Chair of the *Disciplinary Tribunal* or *Disciplinary Tribunal* may order that a charge or *disqualification application* against two or more *Respondent*s be considered and determined at the same hearing where:

(a) the charge or *disqualification application* against each *Respondent* arises out of the same circumstances; or

(b) a joint hearing is necessary or desirable.

15.2 Where a joint hearing is held:

(a) these Regulations are to have effect in relation to the hearing with the necessary modifications as directed by the Chair; and

(b) each *Respondent* concerned is to be able to exercise any of the rights granted to that *Respondent* under these Regulations whether or not any other *Respondent* concerned wishes to exercise that right.

15.3 Unless there is a risk of prejudice to the fairness of the proceedings, the *Disciplinary Tribunal* may consider and determine at a single hearing two or more matters which have been separately referred to the *Disciplinary Tribunal* in respect of the same *Respondent*, whether or not those matters arise from the same circumstances.

16. Amendment and addition of charges or *disqualification applications*

16.1 A *Directions Judge*, the Chair of the *Disciplinary Tribunal* or *Disciplinary Tribunal* may at any time before or during the hearing grant permission to the *BSB* to amend or withdraw the charge or *disqualification application* against any *Respondent*, or grant permission for a new charge, or *disqualification application* be added, provided that:

(a) the *Directions Judge,* the Chair of the *Disciplinary Tribunal* or *Disciplinary Tribunal* is satisfied that the *Respondent* will not by reason of such an amendment, addition or withdrawal suffer any substantial prejudice in the conduct of their defence; and

(b) the *Directions Judge,* the Chair of the *Disciplinary Tribunal* or *Disciplinary Tribunal* will, if so requested by the *Respondent*, adjourn for such time as it considers reasonably necessary to enable that *Respondent* respond to the amended or additional charge or *disqualification application*.

17. Burden and standard of proof

17.1 Subject to regulation 17.2, the *Disciplinary Tribunal* must apply the civil standard of proof when deciding charges of *professional misconduct* and in deciding whether the *disqualification condition* has been satisfied.

17.2 The *Disciplinary Tribunal* must apply the criminal standard of proof when deciding:

(a) charges of *professional misconduct* where the conduct alleged within that charge occurred prior to 1 April 2019, including where the same alleged

conduct continued beyond 31 March 2019 and forms the basis of a single charge of *professional misconduct*; and

(b) whether the *disqualification condition* has been satisfied, in relation to an applicable person's alleged breach of duty or other conduct which occurred prior to 1 April 2019, including where the same alleged conduct continued beyond 31 March 2019.

17.3 Where facts relating to an allegation are in dispute, the burden of proving such facts shall rest on the *BSB*.

18. Evidence

18.1 A *Directions Judge,* the Chair of the *Disciplinary Tribunal* or the *Disciplinary Tribunal* may admit any evidence considered fair and relevant, whether or not such evidence would be admissible in a court of law in England or Wales.

18.2 Evidence may be oral or written, given in person or by such other means as a *Directions Judge,* the Chair of the *Disciplinary Tribunal* or the *Disciplinary Tribunal* may direct.

18.3 Where the determination by consent procedure was used prior to the *allegations* being referred to a *Disciplinary Tribunal*, reference may not be made to it:

(a) unless and until the *Respondent* refers to the substance of the procedure; or

(b) where the *Respondent* consents.

19. Decisions of courts or tribunals

19.1 In proceedings before a *Disciplinary Tribunal* which involve the decision of a court or tribunal in previous proceedings to which the *Respondent* was a *party*, or where a wasted costs order was made against the *Respondent*:

(a) a copy of the certificate or memorandum of conviction relating to the offence shall be conclusive proof that the *Respondent* committed the offence;

(b) any court record of the findings of fact upon which the conviction was based (which may include any document prepared by the sentencing judge or a transcript of the relevant proceedings) shall be proof of those facts, unless proved to be inaccurate;

(c) the finding and sanction of any tribunal in or outside England and Wales exercising a professional disciplinary jurisdiction may be proved by producing a copy of the finding and sanction and the findings of fact upon which that finding or sanction was based shall be proof of those facts, unless proved to be inaccurate; ~~and~~

(d) the judgment of any court or tribunal, or a wasted costs order made in any court or tribunal, may be proved by producing an official copy of the judgment or order, and the findings of fact upon which that judgment or

order was based shall be proof of those facts, unless proved to be inaccurate.

19.2 In proceedings before a *Disciplinary Tribunal* which involve the decision of a court or tribunal in previous proceedings to which the *Respondent* was not a *party*, with the exception of a wasted costs order that was made against the *Respondent*, the provisions of regulation 19.1 do not apply.

20. Oral evidence and special measures at the *Disciplinary Tribunal*

20.1 A witness or *Respondent* shall be required to take an oath or to affirm before giving oral evidence at the hearing.

20.2 The Chair of the *Disciplinary Tribunal* or the *Disciplinary Tribunal* may exclude ~~A~~a witness of fact ~~shall be excluded~~ from the hearing until they are called to give evidence~~, failing which they will not be entitled to give evidence without leave of the *Disciplinary Tribunal*~~.

20.3 Subject to hearing representations from the *parties*, a *Directions Judge*, Chair of the *Disciplinary Tribunal* or the *Disciplinary Tribunal* may adopt such measures as are considered desirable to facilitate the receipt of evidence from a witness or *Respondent*, which may include a direction under regulation 7.7 that a witness's identity is not made public.

20.4 No *Respondent* charged with an allegation of a sexual or violent nature may cross-examine a witness who is the alleged victim, either in connection with:

(a) that allegation, or

(b) any other allegation with which the *Respondent* is charged in the proceedings,

and, without the need for the Respondent's agreement~~in the absence of the *Respondent's* written consent~~, *BTAS* must, no less than seven days before the hearing, appoint a legally qualified person to cross-examine the witness on the *Respondent's* behalf.

21. Absence of a *Respondent*

21.1 Where the *Respondent* has not attended at the time and place appointed for a hearing, the *Directions Judge* or *Disciplinary Tribunal* may nevertheless proceed in their absence if satisfied that it is just to do so.

21.2 Where a *Directions Judge* or a *Disciplinary Tribunal* has proceeded under regulation 21.1, *BTAS* must notify the *Respondent* ~~must be notified~~ that the hearing proceeded in their absence and, if applicable, of their right to apply for a fresh hearing under regulation 22.

22. Application for a fresh hearing

22.1 Where the substantive hearing before the *Disciplinary Tribunal* proceeded in the *Respondent*'s absence, in accordance with regulation 21.1, the *Respondent* may

apply to *BTAS* for a *Directions Judge* to consider an application for a fresh hearing before a new *Disciplinary Tribunal*.

22.2 The *Respondent*'s application under regulation 22.1 must be supported by a statement setting out the facts and circumstances upon which the *Respondent* relies in support of their application.

22.3 The *Directions Judge* may grant a new hearing if:

(a) the *Respondent* submitted their application for a new hearing promptly upon becoming aware of the decision;

(b) the *Respondent* had good reason for not attending the hearing; and

(c) they consider it just to do so.

23. Order of proceedings at the substantive hearing

23.1 The order of proceedings at the substantive hearing shall be as set out in these Regulations unless the *Disciplinary Tribunal* decides, having considered the interests of justice and fairness to the *parties*, that the procedure should be varied.

23.2 Where the *Disciplinary Tribunal* determines the procedure should be varied it may then give such directions with regard to the conduct of, and procedure at, the hearing as it considers appropriate.

23.3 At any time during the substantive hearing when it considers it desirable, the *Disciplinary Tribunal* may retire in the absence of the *parties* to deliberate.

23.4 The *Disciplinary Tribunal* shall consider any applications or submissions from the *parties* in relation to objections to the charge or *disqualification application*, following which the *Disciplinary Tribunal* will retire into private session to consider the submissions and shall thereafter announce its determination.

23.5 After the *Disciplinary Tribunal* has dealt with any applications or submissions under regulation 23.4, the Panel Secretary shall read the charge or *disqualification application* in public.

23.6 The Panel Secretary shall ask the *Respondent* whether the charge or *disqualification application* is admitted or denied and the *Respondent*'s admission or denial will be entered on the record.

23.7 Where the *Respondent* admits all or part of the charge or *disqualification application*:

(a) the Chair of the *Disciplinary Tribunal* shall announce the charge proved or *disqualification condition* satisfied to the extent admitted;

(b) the *Disciplinary Tribunal* shall hear any further evidence and submissions from the *parties*;

(c) the *Disciplinary Tribunal* shall record in writing its finding on the charge or *disqualification application* and its reasons; and

(d) the matter shall then continue in accordance with the procedure set out at regulation 25.

23.8 Where the *Respondent* denies the charge or contests the *disqualification application*, the *BSB* will present the case against the *Respondent*, which may include producing any evidence and calling any witness in person.

23.9 After the evidence against the *Respondent* has been called:

(a) the *Respondent* shall be entitled to submit that they have no case to answer, either in whole or in part; and

(b) the *BSB* shall be entitled to respond to such a submission.

23.10 If such a submission is upheld:

(a) the *Disciplinary Tribunal* shall dismiss the charge or *disqualification application*, either in whole or in part; and

(b) if the entirety of the case against the *Respondent* is not dismissed and some charges or parts of the *disqualification application* remain the proceedings shall continue as set out at regulation 23.11 to 23.13.

23.11 The *Respondent* shall then be entitled to call any witness, give evidence on their own behalf and adduce any other evidence in support of the *Respondent* 's defence.

23.12 The *BSB* shall be entitled to call witnesses and adduce evidence in rebuttal of any part of the defence case.

23.13 After the *Respondent* has called any witness in person and adduced any evidence, the *BSB* may address the *Disciplinary Tribunal*, and thereafter the *Respondent*.

24. Review of interim orders

24.1 On application from either *party,* once a hearing before a *Disciplinary Tribunal* has commenced but prior to *disposal* the *Disciplinary Tribunal* may review any *interim order* or undertaking imposed under the BSB Interim Order Regulations 2027:

(a) in the event of a significant change in circumstances; or

(b) for any other good reason.

24.2 Following a review under regulation 24.1, the *Disciplinary Tribunal*, subject to first considering any representations from the *parties*, may:

(a) confirm, set aside or vary any *interim order* imposed by an *interim panel* under the BSB Interim Order Regulations 2027;

(b) confirm, set aside or vary any undertaking from the *Respondent*;

(c) accept from the *Respondent* an undertaking in written terms satisfactory to the *Disciplinary Tribunal* (and subject to such conditions as the *Disciplinary Tribunal* may agree) which may include:

(i) being immediately *suspended* or *disqualified* by the *BSB*; or

(ii) carrying out their future activities in accordance with interim *conditions* on their authorisation or licence.

24.3 Where an *interim order* or undertaking is confirmed, varied or accepted under regulation 24.2, either *party*:

(a) may apply to the *President* for it to be varied where they consider due to a significant change in circumstances or for any other good reason the *interim order* or undertaking should be set aside or varied; and

(b) where such an application is made, must send a copy to the other *party* and the other *party* may make representations on the application.

24.4 Where the *President* receives an application under regulation 24.3, they must refer it to:

(a) the Chair and to one of the *lay members* of the *Disciplinary Tribunal* which confirmed, varied or accepted the order or undertaking under regulation 24.2; or

(b) where under regulation 27.10 a three-person *Disciplinary Tribunal* refers a case to a five-person *Disciplinary Tribunal* for sanction, and that five-person *Disciplinary Tribunal* has been convened by the *President*, to the Chair and to one of the *lay members* of the five-person *Disciplinary Tribunal*.

24.5 The persons to whom an application is referred under regulation 24.4 may, subject to first considering any representations from the *parties*, exercise any of the powers in regulation 24.2.

24.6 Any *interim order* or undertaking confirmed, varied or accepted under regulation 24.2 or 24.5 shall cease to have effect when the *Disciplinary Tribunal* makes an order for *disposal* of all charges or *disqualification applications*.

25. The finding

25.1 At the end of the hearing:

(a) the *Disciplinary Tribunal* must record in writing its findings on each charge or *disqualification application* with its reasons; and

(b) the record must be approved~~signed~~ by the Chair and by all members of the *Disciplinary Tribunal*.

25.2 If the members of the *Disciplinary Tribunal* do not agree on any charge or *disqualification application*, the finding to be recorded must be that of the majority.

25.3 If the members of the *Disciplinary Tribunal* are equally divided on any charge or *disqualification application*, then, as the burden of proof is on the *BSB*, the finding to be recorded on that charge or *disqualification application* must be that which is the most favourable to the *Respondent*.

25.4 The Chair of the *Disciplinary Tribunal* must then announce the *Disciplinary Tribunal* 's finding on the charge or *disqualification application*, and state whether each such finding was unanimous or by a majority.

25.5 The *Disciplinary Tribunal* is free to reserve its judgment.

25.6 In any case where the *Disciplinary Tribunal* dismisses the charge or *disqualification application*, it may give advice to the *Respondent* about their future conduct.

26. Orders pending a final decision on sanction

26.1 In any case where a charge has been found proved or the *disqualification condition* has been found satisfied and the *Disciplinary Tribunal* has decided to adjourn the hearing before deciding what sanction to impose, or where under regulation 27.10 a three-person *Disciplinary Tribunal* refers a case to a five-person *Disciplinary Tribunal* for sanction, the *Disciplinary Tribunal* must consider prior to the adjournment taking effect whether an order in regulation 26.2 is necessary (and if so to make such an order):

(a) to protect the interests of clients (or former or potential clients);

(b) to protect the public; or

(c) otherwise in the public interest.

26.2 An order imposed by a *Disciplinary Tribunal* under regulation 26.1 may:

(a) require the *Respondent* to suspend their practice, in which case the *BSB* must suspend that *Respondent*'s *practising certificate*;

(b) require the *BSB* to impose such conditions on the *Respondent*'s practice as the *Disciplinary Tribunal* deems necessary;

(c) prohibit the *Respondent*, either unconditionally or subject to such conditions as the *Disciplinary Tribunal* deems necessary, from accepting or carrying out any *public access instructions*;

(d) suspend the *Respondent*'s authorisation to *conduct litigation* or make it subject to such conditions as the *Disciplinary Tribunal* deems necessary; or

(e) where the *Respondent* does not currently hold a *practising certificate*, require the *BSB* not to issue any *practising certificate* to them.

26.3 Any order made under regulation 26.1 will take effect immediately and last until a decision on what sanction to impose has been made unless the *Disciplinary Tribunal* directs otherwise.

26.4 Where an order of suspension is made under regulation 26.1 the effect of the suspension will be as set out in regulation 29.

26.5 Where an order is made under regulation 26.1, either *party*:

(a) may apply to the *President* for it to be varied where they consider, due to a change in circumstances, the order should be set aside or varied; and

(b) where such an application is made, must send a copy to the other *party* which may make representations on the application.

26.6 Where the *President* receives an application under regulation 26.5, they must refer it to:

(a) the Chair and to one of the *lay members* of the *Disciplinary Tribunal* which made the order under regulation 26.1; or

(b) where under regulation 27.10 a three-person *Disciplinary Tribunal* refers a case to a five-person *Disciplinary Tribunal* for sanction, and that five-person *Disciplinary Tribunal* has been convened by the *President*, to the Chair and to one of the *lay members* of the five-person *Disciplinary Tribunal*.

26.7 The persons to whom an application is referred under regulation 26.6 may, subject to first considering any representations from the *parties*, confirm, set aside or vary the order to which the application has been made.

26.8 Any order imposed under regulation 26.1 or 26.7 shall cease to have effect when the *Disciplinary Tribunal* makes an order under regulation 27 for *disposal* of all charges or *disqualification applications*.

27. The sanction

27.1 If the *Disciplinary Tribunal* finds any charge proved or *disqualification condition* satisfied against a *Respondent* it may hear evidence of any previous:

(a) finding of *professional misconduct* by a *Disciplinary Tribunal* or under the determination by consent procedure;

(b) *disqualification order*;

(c) finding of a breach of proper professional standards by the *BSB* or any other regulator; or

(d) adverse finding on a charge consisting of a *legal aid complaint*;

made in respect of the *Respondent*, or, where the proved charge concerns a *BSB entity*, in respect of that body or any person employed in the *BSB entity* directly implicated by the charge or *disqualification application*.

27.2 After hearing any evidence and representations by or on behalf of the *Respondent* and *the BSB*, the *Disciplinary Tribunal* must decide what sanction to impose on a

Respondent, taking into account the *Sanctions Guidance* and must record its sanction in writing, together with its reasons.

27.3 If the members of the *Disciplinary Tribunal* do not agree on the sanction to be imposed on a *Respondent*, the sanction to be recorded must be that decided by the majority.

27.4 If the members of the *Disciplinary Tribunal* are equally divided on the sanction to be imposed on a *Respondent*, the sanction to be recorded must be that which is the most favourable to the *Respondent*.

27.5 The Chair of the *Disciplinary Tribunal* must announce the *Disciplinary Tribunal* 's decision on sanction and state whether the decision was unanimous or by a majority.

27.6 The *Disciplinary Tribunal* is free to reserve its judgment.

27.7 Subject to regulation 27.8 below:

(a) a *Respondent* against whom a charge of *professional misconduct* has been found proved may be sanctioned by the *Disciplinary Tribunal* as follows:

(i) in the case of *barrister*s, in accordance with Schedule 1 to these Regulations;

(ii) in the case of a *BSB authorised body*, in accordance with Schedule 2 to these Regulations;

(iii) in the case of a *BSB licensed body*, in accordance with Schedule 3 to these Regulations;

(iv) in the case of *registered European lawyers*, in accordance with Schedule 4 to these Regulations;

(v) in the case of all other *BSB regulated persons*, in accordance with Schedule 5 to these Regulations;

(vi) where it applies, in accordance with the powers conferred under Sections 41 and 42 of the Administration of Justice Act 1985 (as substituted by Section 33 of the Legal Aid Act 1988 and as amended by Schedule 4 to the Access to Justice Act 1999).

(b) in the case of a *Respondent* who is an *applicable person* in respect of whom the *Disciplinary Tribunal* finds the *disqualification condition* satisfied, the *Disciplinary Tribunal* may make a *disqualification order* if the *Disciplinary Tribunal* considers that:

(i) the making of such a *disqualification order* is a proportionate sanction; and

(ii) it is in the public interest (there being no other available sanction in respect of a *non-authorised individual* (other than an unregistered

barrister, manager of a *BSB entity* or a *registered European lawyer* who does not have a current practicing certificate) directly or indirectly employed by a *BSB authorised person*).

27.8 In any case where a charge of *professional misconduct* has been found proved, the *Disciplinary Tribunal* may decide that no further action should be taken against the *Respondent*.

27.9 A three-person *Disciplinary Tribunal* may not:

(a) disbar a barrister or suspend a barrister's practising certificate for a period longer than twelve months;

(b) revoke the authorisation or licence (as appropriate) of a *BSB entity* or suspend it for a period longer than twelve months;

(c) remove a *registered European lawyer* from the register of European lawyers;

(d) impose a sanction of suspension on any *BSB regulated person* for a prescribed period longer than twelve months; or

(e) impose a *disqualification order* for more than twelve months.

27.10 In the event that a three-person *Disciplinary Tribunal* considers that a case before it merits the imposition on a *Respondent* of any of the sentences referred to in regulation 27.9 *Disciplinary Tribunal* the three-person *Disciplinary Tribunal* must:

(a) refer the case to a five-person *Disciplinary Tribunal* for it to sanction that *Respondent* (but may proceed to sanction any other *Respondent* to the proceedings in respect of whom this regulation does not apply); ~~and~~

(b) prepare a statement of the facts as found and, where relevant, any sanction imposed on any other *Respondent* to the proceedings and the *Respondent* cannot challenge the facts found by the three-person *Disciplinary Tribunal*; and

(c) direct within what period of time the sanction hearing before the five-person *Disciplinary Tribunal* is to be held and make appropriate directions for the parties to provide the *President* with their dates of availability.

27.11 Following a referral by a three-person *Disciplinary Tribunal* under regulation 27.10:

(a) the five-person *Disciplinary Tribunal* must be constituted in accordance with regulation 13.2;

(b) the *President* must fix the date for the sanction hearing and in so doing shall have regard to the availability of the parties, save that the *President* may disregard the availability of any *party* where that *party* has failed to provide any, or any reasonable, dates of availability; and

(c) as soon as is reasonably practicable after they have fixed the sanction hearing, the *President* must inform the *parties* of that date, the names and

status of those who will constitute the panel; and the parties may object to any one or more members of the panel in accordance with regulation 11.

27.12 Whether or not a *Disciplinary Tribunal* finds any charge proven or *disqualification condition* satisfied against a *barrister* who is a pupil supervisor, if the *Disciplinary Tribunal* considers that the circumstances of the allegation are relevant to the *Respondent* in their capacity as a pupil supervisor, it may notify the *Respondent*'s *AETO* or the *BSB* of those concerns in such manner as it sees fit.

27.13 If a *barrister* is a member of more than one *Inn*, each *Inn* of which they are a member must be mentioned in the sanction imposed on them.

28. Findings and sanctions coming into effect

28.1 Subject to regulation 30, any finding or sanction shall come into effect:

(a) where no appeal is filed under regulation 33, upon the expiration of the appeal period; and

(b) where an appeal is filed in the High Court upon the date the appeal is finally disposed of or abandoned.

29. Sanction of suspension from practice or from authorisation or licensing or imposition of conditions

29.1 For the purposes of regulation 29.2 and 29.3:

(a) the effect of a sanction of suspension for a *BSB authorised individual* is that:

(i) the *Respondent*'s *practising certificate* is suspended by the *BSB* for the period of the suspension;

(ii) the *Respondent* is prohibited from practising as a *barrister*, or holding themselves out as being a *barrister* when providing legal services or as otherwise being authorised by the *BSB* to provide reserved legal activities or when describing themselves as a *barrister* in providing services other than legal services (whether or not for reward) unless they disclose the suspension;

(b) the effect of a sanction of suspension for a *registered European lawyer* shall mean that the *Respondent* is suspended from the register of European lawyers maintained by the *BSB* and is, for so long as they remain suspended:

(i) prohibited from holding themselves out as registered with the *BSB*; and

(ii) not authorised to practise.

(c) the effect of a sanction of suspension for a *BSB entity* shall mean that the body's authorisation or licence is suspended for the period of the

suspension such that the *Respondent* is not an authorised person for that period;

(d) the effect of a sanction on a *BSB authorised individual* or a *registered European lawyer* requiring completion of continuing professional development shall be in addition to the mandatory requirements set out in the continuing professional development rules at Part 4 of the *Handbook*.

29.2 In exceptional circumstances, where the total suspension is three months or less, the *Disciplinary Tribunal* may postpone the commencement of the suspension for such~~a~~ period as it deems fit.

29.3 The period for which a sanction of suspension from practice is expressed to run may be:

(a) a fixed period; or

(b) until the *Respondent* has complied with any conditions specified in the order imposing the sanction of suspension.

29.4 Conditions may be imposed on a *barrister's practising certificate* or on the authorisation or licence of a *BSB entity*:

(a) without its being suspended; or

(b) to take effect on a *barrister's practising certificate* or on the authorisation or licence of a *BSB entity* when a period of suspension ends.

29.5 Conditions may include such other matters as the *Disciplinary Tribunal* may consider appropriate for the purpose of protecting the public or preventing a repetition of the conduct in question.

30. Suspension/withdrawal/conditions on practising rights pending the hearing of any appeal

30.1 This regulation applies to any *Respondent* against whom a charge of professional misconduct has been found proved or the *disqualification condition* is satisfied and where the *Disciplinary Tribunal* has made its decision on sanction.

30.2 Where regulation 30.1 applies, the *Disciplinary Tribunal* must seek representations from the *Respondent* and from the *BSB* on the appropriateness or otherwise of taking action under regulation 30.3 and 30.4 below.

30.3 Subject to regulation 30.4, having heard any representations under regulation 30.2, the *Disciplinary Tribunal* may impose an immediate suspension or such conditions as it considers appropriate pending appeal where it considers 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.

30.4 Where the *Respondent* has been sanctioned to be disbarred, *disqualified* or *suspended* for 12 months or more or had its authorisation or licence revoked the *Disciplinary Tribunal* must:

(a) require the *Respondent* to suspend their practice immediately (in which case the *BSB* must suspend that *Respondent's practising certificate* or other authorisation or licence with immediate effect); or

(b) where the *Respondent* does not currently hold a *practising certificate*, require the BSB not to issue a *practising certificate* to them

unless in the circumstances of the case it considers it to be inappropriate to do so.

30.5 If the *Disciplinary Tribunal* decides that it would be inappropriate to require immediate suspension or immediate imposition of conditions it may nonetheless require the *Respondent* to suspend their practice or impose conditions, from such date as the *Disciplinary Tribunal* may specify.

30.6 Where the *Respondent* is permitted under regulation 30.5 to continue to practise for any period before being suspended the *Disciplinary Tribunal* may require the *BSB* to impose such terms on the *Respondent*'s practice as the *Disciplinary Tribunal* deems necessary to protect the public until the suspension comes into effect.

30.7 Where an order is made in respect of a *Respondent* under regulation 30.3 and either *party* considers that, due to a change in the circumstances, it would be appropriate for that order to be varied or set aside, they may apply to the *President* in writing for it to be varied or set aside.

30.8 When the *President* receives an application made under regulation 30.7 they must refer it to the Chair and to one of the lay members of the *Disciplinary Tribunal* which originally made the order, or any appropriate substitute, to make a decision on the application.

30.9 Any application made under regulation 30.7:

(a) must be sent by the applicant on the day that it is made to the other *party*; and

(b) the other *party* may make such representations as they think fit on that application to those to whom the application has been referred by the *President*.

30.10 The persons to whom an application made under regulation 30.7 above is referred may confirm, vary or set aside the order in relation to which the application has been made.

31. Report of finding and sanction

31.1 As soon as practicable after the *Disciplinary Tribunal* has made its decision, the Chair must prepare a written report with reasons for their findings and any sanction.

31.2 *BTAS*~~The Chair~~ must send copies of the report to:

(a) the *Respondent*;

(b) the *BSB;*

(c) the *President;*

(d) where a *barrister* has been disbarred, the *Respondent*'s *Inn* of Call and to any other *Inns* of which they are a member;

(e) where a *HOLP* or *HOFA* or manager or employee of a *licensed body* has been *disqualified*, the *Legal Services Board;*

(f) in cases where one or more charges of *professional misconduct* have been found proved:

(i) the *Respondent*'s head of chambers, *HOLP*, or employer (as appropriate); and

(ii) in the case of a *registered European lawyer*, their home professional body;

(g) in cases where one or more charges of *professional misconduct* have been found proved and any such charge constitutes, or arises out of, a legal aid complaint, or the sanction includes an order under regulation 27.7(a)(~~i~~vi), the *Legal Aid Agency*; and

(h) any other person or bodies that the *President* deems, in their absolute discretion, to be appropriate, taking into account the circumstances.

32. Publication of finding, sanction and report of the *Disciplinary Tribunal*

32.1 The following provisions apply to the publication of the finding, sanction and report of a *Disciplinary Tribunal*, *BTAS* must publish:

(a) the finding and any sanction of the *Disciplinary Tribunal* on its website within 14 days of the date of the *Disciplinary Tribunal's* decision, unless the *Disciplinary Tribunal* directs that it is not in the public interest to publish the finding ~~and/~~or sanction at that time or at all;

(b) the report of the *Disciplinary Tribunal* decision on its website within seven ~~7~~ days of receipt of the report from the Chair under regulation 31.2, unless the *Disciplinary Tribunal* directs that it is not in the public interest to publish the report in full or in part, at that time ~~-~~or at all.

32.2 The *BSB* may publish the finding, sanction or report of a *Disciplinary Tribunal* on its website in accordance with regulation 32.1(a).

33. Appeals

33.1 In cases where:

(a) one or more charges of *professional misconduct* been proved or dismissed, in whole or in part;

(b) a *disqualification order* has been made or refused,

an appeal may be filed with the High Court in accordance with the Civil Procedure Rules.

33.2 An appeal under regulation 33.1 may be made by:

(a) by the *Respondent* against finding or sanction;

(b) by the *BSB* against finding or sanction.

33.3 Where a *Respondent* files an appeal under regulation 33.1, they may at the same time file with the High Court an appeal against any requirement imposed under regulation 30.3 – 30.6.

34. Action to be taken by the *Inn* (in circumstances where a *barrister* has been sanctioned to be disbarred)

34.1 The Treasurer of the *Respondent*'s *Inn* of Call must as soon as reasonably practicable, and in any event not later than 14 days:

(a) after the end of the *Disciplinary Tribunal* 's proceedings and once the time for appeal to the High Court has expired; or

(b) where the *Respondent* has filed an appeal to High Court against the finding or sanction, after any appeal to the High Court has been disposed of or abandoned,

pronounce the sanction of disbarment decided by the *Disciplinary Tribunal*, which must take effect within two working days, and take such further action as may be required to carry the sanction into effect.

34.2 The Treasurer of the *Respondent*'s *Inn* of Call must inform the persons specified in regulation 31.2 of the date of the effective date of the sanction.

35. Action to be taken by *BSB*

35.1 Subject to regulation 35.2, the *BSB* must take the appropriate steps to put the finding or sanction of the *Disciplinary Tribunal* into effect, except that in any case in which an applicable person has given notice of appeal to the High Court against the finding or sanction of the *Disciplinary Tribunal* on the charges of *professional misconduct* or *disqualification application* , no action may be taken until the appeal:

(a) has been heard by the High Court; or

(b) is otherwise disposed of without a hearing.

35.2 Where the finding or sanction of the *Disciplinary Tribunal* is that the *BSB regulated person* should be subject to an immediate suspension or immediate imposition of conditions the actions of the *BSB* must not be deferred even if the *BSB regulated*

person has given notice of appeal to the High Court against the finding or sanction of the *Disciplinary Tribunal* on the charges of *professional misconduct*.

36. Costs

36.1 A *Disciplinary Tribunal* or *Directions Judge* may make such orders for costs as they think fit.

36.2 A *party* who wishes to make an application for costs must, no later than 24 hours before the commencement of the hearing, serve upon any other *party* and file with *BTAS* a costs schedule; and the other *party* may make representations in response.

36.3 Where it exercises its discretion to make an order for costs, a *Disciplinary Tribunal* must either itself decide the amount of such costs or direct *BTAS* to appoint a suitably qualified person to do so on its behalf.

36.4 Any costs ordered to be paid by or to a *Respondent* must be paid to or by the *BSB*.

36.5 Costs may be awarded to the *BSB* in respect of any costs incurred following referral of an allegation under the BSB Enforcement Decision Regulations 2027.

37. Service of documents

37.1 Any documents required to be served on a *Respondent* in connection with proceedings under these Regulations shall be deemed to have been validly served:

(a) if service is given by e-mail where the recipient's e-mail address is known to the *BSB*:

(i) if the email is sent before 16:30 on a *business day*, on that day; or

(ii) in any other case, on the next *business day* after the day on which it was sent;

(b) if sent by registered post, or recorded delivery post:

(i) in the case of a *BSB authorised individual*, to the address notified by such *Respondent* pursuant to the requirements of Part 2 of the~~is~~ *Handbook* (or any provisions amending or replacing the same) as being their *practising address*;

(ii) in the case of a *BSB regulated person* or *non-authorised individual* acting as a *manager* or employee of a *BSB entity*, to the address provided by the *BSB entity* as being their home address or, in the absence of such information, to the address of the relevant *BSB entity* notified pursuant to the requirements of Part 2 of the~~is~~ *Handbook*;

(iii) in either case, to an address to which the *Respondent* may request in writing that such documents be sent; or

(iv) in the absence of any of the above, to their last known address or; in the case of a *BSB regulated person* or *non-authorised individual* acting as a *manager* or employee of a *BSB entity*, the last known address of the relevant *BSB entity*;

on the second day after it was posted, left with, delivered to or collected by the relevant service provider, provided that that day is a business day; or, if not, the next business day after that day;

(c) if service is given by personal service:

(i) if the document is served personally before 16:30 on a *business day*, on that day; or

(ii) in any other case, on the next *business day* after that day;

(d) if service is given in any other way which may be directed by the *Directions Judge or* Chair of the *Disciplinary Tribunal*.

38. Exclusion from providing representation funded by the Legal Aid Agency (Application for termination)

38.1 A *Respondent* who has been excluded from legal aid work under section 42 of the Administration of Justice Act 1985 may apply for an order ending their exclusion from providing representation funded by the Legal Aid Agency as part of the Community Legal Service or Criminal Defence Service.

38.2 Any such application must be in writing and addressed to the *President* who may appoint a Chair of a Disciplinary Tribunal to determine the application.

38.3 The Chair may dismiss the application, or may decide that the *Respondent*'s exclusion from providing representation funded by the Legal Aid Agency as part of the Criminal Legal Aid or Civil Legal Aid be ended forthwith, or on a specified future date.

38.4 The *BTAS* must notify their decision of the Chair in writing to all those persons who received copies of the report of the *Disciplinary Tribunal* under regulation 31.2.

38.5 The Chair may make such order for costs as it thinks fit and regulation 36 shall apply with all necessary modifications.

Schedule 1 – Sanction Powers Against *Barrister*s

1. When a charge of *professional misconduct* has been found proved against a *barrister* by a *Disciplinary Tribunal*, the *Disciplinary Tribunal* may decide to:

   (a) order that they be disbarred;

   (b) order that their practising certificate be suspended for a prescribed period;

   (c) order that their practising certificate should not be issued or renewed;

   (d) order that conditions be imposed on their practising certificate;

   (e) order that they be prohibited, either indefinitely or for a prescribed period and either unconditionally or subject to conditions, from accepting or carrying out any public access instructions;

   (f) order that their authorisation to *conduct litigation* be removed or suspended, or be subject to conditions imposed;

   (g) order them to pay a fine of up to £50,000 to the *BSB* (or up to £50,000,000 if the charges relate to his or her time as an employee or manager of a licensed body);

   (h) order them to complete continuing professional development of such nature and duration as the *Disciplinary Tribunal* may direct, whether outstanding or additional requirements, and to provide satisfactory proof of compliance with this order to the supervision team;

   (i) reprimand them;

   (j) give them advice about their future conduct;

   (k) order them to attend on a nominated person to be reprimanded; or

   (l) order them to attend on a nominated person to be given advice about their future conduct.

2. If an application to *disqualify* the *Barrister* from acting as *HOLP*, manager or employee of an authorised person is made in the same proceedings, the *Disciplinary Tribunal* may also *disqualify* the *Barrister* in accordance with the provisions of Schedule 5.

Schedule 2 – Sanction Powers Against BSB Authorised Bodies

1. If a *Disciplinary Tribunal* finds a charge of *professional misconduct* proved against a *BSB authorised body*, the *Disciplinary Tribunal* may decide to:

   (a) order that its authorisation to practise as a *BSB authorised body* be removed;

   (b) order that conditions be imposed on its authorisation to practise as a *BSB authorised body*;

   (c) order that its authorisation to practise for a prescribed period be suspended (either unconditionally or subject to conditions);

   (d) order that it be re-classified as a *BSB licensed body* (either unconditionally or with conditions imposed on its licence to practise as a *BSB licensed body*);

   (e) order that its authorisation to *conduct litigation* be withdrawn or suspended, or be subject to conditions on it;

   (f) order it to pay a fine of up to £250,000 to the *BSB* ~~Bar Standards Board~~;

   (g) order that its managers or employees complete continuing professional development of such nature and duration as the *Disciplinary Tribunal* may direct and to provide satisfactory proof of compliance with this order to the supervision team;

   (h) reprimand it;

   (i) give it advice about its future conduct; or

   (j) order it to attend (by its *HOLP* or other person identified in the order) on a nominated person to be given advice about its future conduct.

Schedule 3 – Sanction Powers Against *BSB Licensed Bodies*

1. If a *Disciplinary Tribunal* finds a charge of *professional misconduct* proved, against a *BSB licensed body* the *Disciplinary Tribunal* may decide to:

   (a) revoke its licence to practise;

   (b) suspend its licence to practise for a prescribed period (either unconditionally or subject to conditions);

   (c) impose conditions on its licence to practise;

   (d) withdraw or suspend its right to *conduct litigation* or to impose conditions on it;

   (e) order it to pay a fine of up to £250,000,000 to the *BSB*;

   (f) order it to ensure that its managers or employees complete continuing professional development of such nature and duration as the Tribunal shall direct and to provide satisfactory proof of compliance with this order to the supervision team;

   (g) reprimand it;

   (h) give advice to it about its future conduct; or

   (i) order it to attend (by its *HOLP* or other person identified in the order) on a nominated person to be given advice about its future conduct.

Schedule 4 – Sanction Powers Against *Registered European lawyers*

1. If a *Disciplinary Tribunal* finds a charge of *professional misconduct* proved against a *registered European lawyer*, the *Disciplinary Tribunal* may decide to:

   (a) order that they be removed from the register of European lawyers;

   (b) order that they be suspended from the register of European lawyers for a prescribed period (either unconditionally or subject to conditions);

   (c) order a condition to be imposed on them prohibiting them, either indefinitely or for a prescribed period and either unconditionally or subject to conditions, from accepting or carrying out any public access instructions;

   (d) order them to pay a fine of up to £50,000 to the *BSB* (or of up to £50,000,000 if, the charges relate to their time as an employee or manager of a licensed body);

   (e) order them to complete continuing professional development of such nature and duration as the *Disciplinary Tribunal* shall direct, whether outstanding or additional requirements, and to provide satisfactory proof of compliance with this order to the supervision team;

   (f) reprimand them;

   (g) give them advice about their future conduct;

   (h) order them to attend on a nominated person to be reprimanded; or

   (i) order them to attend on a nominated person to be given advice about their future conduct.

Schedule 5 – Sanction Powers Against All Other *BSB regulated persons*

1. If a *Disciplinary Tribunal* finds a charge of *professional misconduct* proved against any other *BSB regulated person* the *Disciplinary Tribunal* may decide to:

   (a) order them to pay a fine of up to £50,000 to the *BSB* (or up to £50,000,000 if the charges relate to their time as an employee or manager of a licensed body);

   (b) reprimand them;

   (c) give them advice about their future conduct;

   (d) order them to attend on a nominated person to be reprimanded;

   (e) order them to attend on a nominated person to be given advice about their future conduct.

2. If an application to *disqualify* is made in the same proceedings, the *Disciplinary Tribunal* may also *disqualify* a *BSB regulated person* in accordance with these Regulations.

Bar Standards Board Interim Orders Regulations 2027

Introduction

These Regulations set out the powers we have to make interim orders to suspend the authorisation of a person or entity, put conditions on their authorisation, or to disqualify a person from acting in certain specific authorised roles, pending disposal by a Disciplinary Tribunal. These Regulations also set out the procedure to be followed in such cases.

They apply to all BSB authorised persons (including practising barristers) and any Heads of Legal Practice (HOLP), Heads of Finance and Administration (HOFA) and managers and other employees of BSB authorised persons.

This introduction does not form part of the Interim Orders Regulations 2027.

1. Citation and commencement

1.1 These Regulations shall be known as the 'BSB Interim Orders Regulations 2027'.

1.2 These Regulations shall come into effect on [1 February] 2027 and shall also apply to all referrals to an *interim panel* made prior to that date under the Regulations then applying, and any step taken in relation to any referral pursuant to those Regulations shall be regarded as having been taken pursuant to the equivalent provisions of these Regulations.

2. Interpretation and authorisation

2.1 In these Regulations the words and expressions which are italicised shall be interpreted in accordance with the definitions in Part 6 of the *Handbook,* save that "*Respondent*" shall mean a *BSB authorised person* or any *applicable person* acting as a *HOLP* or a *HOFA* or working as a *manager* or employee of a *BSB authorised person*.

2.2 In these Regulations, any reference to the singular shall include the plural and vice versa.

2.3 The *BSB* shall have the power to delegate to any person, group or body any function or power exercisable by the *BSB* under these Regulations; any such delegation must be in writing and may be either or both retrospective and prospective, and either or both general and for a particular purpose.

2.4 The *President* and the Chair of the *Independent Decision-Making Body* shall have the power to authorise any person, group or body to fulfil any function or exercise any power exercisable by the *President* or the Chair of the *Independent Decision-Making Body* respectively under these Regulations; any authorisations given must be in writing and may be either or both retrospective and prospective, and either or both general and for a particular purpose.

3. Powers to impose *interim orders*

3.1 Subject to the criteria and procedures outlined in regulations 6 to 9, at any time pending *disposal* by a *Disciplinary Tribunal* under the BSB Disciplinary Tribunals Regulations 2027*,* the *BSB* may take interim action to impose one or more of the following *interim orders*:

(a) interim *suspension;*

(b) interim *disqualification;*

(c) interim *conditions;*

(d) interim *directions*.

4. Composition of *interim panels* and *review panels*

4.1 An *interim panel* and *a review panel* shall each consist of three persons nominated by the *President* comprising*:*

(a) a Chair, who shall be a King's Counsel, and

(b) two other members, at least one of whom must be a *lay member*.

4.2 The persons nominated by the *President* to sit on an *interim panel* or a *review panel* must be selected from the pool appointed by the *Tribunal Appointments Body*.

4.3 No *person* shall be appointed to serve on an *interim panel* or a *review panel* if they were a member of the *BSB* or any of its committees or the *Independent Decision-making Body* at any time when the matter was being considered by the *BSB*.

4.4 The proceedings of an *interim panel or* a *review panel* shall be valid notwithstanding that one of the members becomes unable to act or is *disqualified* from acting, so long as the number of members present throughout the substantive hearing is not reduced below two and continues to include the Chair and one *lay member.*

4.5 The validity of the proceedings of an *interim panel* or a *review panel* shall not be affected by a defect in the appointment of a member.

5. Composition of appeal panels

5.1 An appeal panel shall each consist of three persons nominated by the *President* comprising*:*

(a) two King's Counsel, one of whom shall be nominated as the Chair; and

(b) one *lay member*.

5.2 The persons nominated by the *President* to sit on an appeal panel must be selected from the pool appointed by the *Tribunal Appointments Body*.

5.3 No *person* shall be appointed to serve on an appeal panel if they were a member of the *BSB* or any of its committees or the *Independent Decision-making Body* at any time when the matter was being considered by the *BSB*.

5.4 No person who is appointed to sit on an appeal panel shall have sat on either the *interim panel* or the *review panel* considering the same matter.

5.5 The proceedings of an appeal panel shall be valid notwithstanding that one of the members becomes unable to act or is *disqualified* from acting, so long as the number of members present throughout the substantive hearing is not reduced below two and continues to include the Chair and one *lay member.*

5.6 The validity of the proceedings of an appeal panel shall not be affected by a defect in the appointment of a member.

6. Referral to interim panel and immediate *interim orders*

6.1 At any time on or after receipt of a *report* or any other information, the *BSB* may refer a *Respondent* to an *interim panel* if it considers that an *interim order* may be 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

pending the *disposal* of any charge or *disqualification application* relating to the *Respondent* by a Disciplinary Tribunal.

6.2 If the *BSB* refers a *Respondent* to an *interim panel* under regulation 6.1, the Chair of the *Independent Decision-Making Body* shall consider whether or not the *Respondent* should be subject to an immediate *interim order* pending *disposal* by the *interim panel*.

6.3 The Chair of the *Independent Decision-making Body* may impose an immediate interim *suspension*, *disqualification or conditions* order if they are satisfied that such a course of action is justified having considered the risk to the *public* if such an immediate *interim order* is not imposed having regard to the *regulatory objectives*.

6.4 Any immediate *interim order* imposed by the Chair of the *Independent Decision-Making Body* shall:

(a) take immediate effect;

(b) be notified in writing by the *BSB* to the *Respondent* with reasons;

(c) remain in force until the earlier of:

(i) such time as an *interim panel* has considered the matter;

(ii) the removal or qualification of the immediate *interim order* by the *BSB* upon acceptance by the *BSB* of a written undertaking by the *Respondent* in accordance with regulation 6.5; or

(iii) the date falling four weeks after the date on which the immediate *interim order* is originally imposed, following which no further immediate *interim order* shall be imposed on the *Respondent* in respect of the same *report* or information that gave rise to the referral under regulation 6.1;

(d) be published on the *BSB's* website; and

(e) be annotated on the *BSB's* register of *BSB authorised persons* which is to be maintained by the *BSB* or be included on the *BSB's* register of individuals that are the subject of a *disqualification order* (as appropriate).

6.5 If, following the imposition of an immediate *interim order* under regulation 6.3 the *Respondent* agrees to provide to the *BSB* an undertaking in written terms in accordance with the provisions of regulation 7.2(d) below which is satisfactory to the *BSB* and which is subject to such conditions as the *BSB* may agree:

(a) the *BSB* may elect to remove or qualify the immediate *interim order* imposed under regulation 6.3 above, and

(b) the referral to the *interim panel* shall also be withdrawn.

7. Procedure after referral to an *interim panel*

7.1 As soon as practicable after the *BSB* has made a decision to refer a *Respondent* to an *interim panel* under regulation 6.1, the *BSB* shall:

(a) notify the *President* of the decision and inform them whether or not an immediate *interim order* has also been imposed on the *Respondent*; and

(b) notify the *Respondent* in writing of the decision to refer them to an *interim panel*.

7.2 The written notice to the *Respondent* under regulation 7.1(b) shall:

(a) include a summary of the details that have caused the referral to the *interim panel;*

(b) be accompanied by copies of any documents or other evidence relied on in support of the referral;

(c) be accompanied by a copy of these Regulations;

(d) inform the *Respondent* that they may give an undertaking in writing to the *BSB*, pending the *disposal* of any disciplinary charge or *disqualification application* by a *Disciplinary Tribunal*, in written terms satisfactory to the *BSB*, which may include:

(i) being immediately *suspended* or *disqualified* by the *BSB*; or

(ii) carrying out their future activities in accordance with interim *conditions* on their authorisation or licence.

7.3 As soon as practicable after receipt of the notice referred to in regulation 7.1(a), the *President* shall:

(a) convene an *interim panel* in accordance with regulation 4 on a date no more than twenty-one days from the date of that notice;

(b) give reasonable notice in writing to the *Respondent* and the *BSB* of the date, time and venue of the *interim panel* hearing;

(c) inform the *Respondent* that they are entitled to make representations at the *interim panel* hearing in writing or orally, by themselves or by others on their behalf.

7.4 If the *Respondent* is the manager or employee of a *BSB authorised person*, then the *President* shall also give notice in writing to the *BSB authorised person* of the date, time and venue of the *interim panel* hearing and inform the *BSB authorised person* that they are entitled to make representations at the interim panel hearing in writing or orally, by themselves or by others on their behalf, in relation to the imposition of any interim order on the *Respondent.*

7.5 The *President* may, at any time, whether of their own initiative or on the application of the *Respondent* or the *BSB*, fix a new date or time for the *interim panel* hearing provided it is fixed less than four weeks after the date on which any immediate *interim order* was originally imposed by the Chair of the *Independent Decision-Making Body* or as soon as practicable thereafter.

7.6 If a *Respondent* gives an undertaking in writing to the *BSB* in accordance with regulation 7.2(d) above which is satisfactory to the *BSB*, the *President* shall accept the written undertaking by the *Respondent* in place of any hearing by the *interim panel* pending the *disposal* of any disciplinary *charge* or *disqualification application*.

8. Procedure of *interim panels*

8.1 At any hearing of an *interim panel:*

(a) the procedure shall be informal, the details being at the discretion of the Chair of the *interim panel*;

(b) no witnesses may be called without the prior consent of the Chair of the *interim panel*;

(c) no witnesses may give evidence without the submission of a proof of evidence, save with the consent of the Chair;

(d) if the *Respondent* fails to attend, the hearing may proceed in their absence if the *interim panel is* satisfied that this course is appropriate; alternatively, the hearing may be adjourned;

(e) the hearing shall not be in public unless so requested by the *Respondent* and a record shall be taken electronically; and

(f) if the *interim panel* decides an adjournment is necessary for any reason, it may adjourn the hearing for such period and to such time and place, and upon such terms, including the imposition of any *interim order* pending the hearing, as it may think fit;

(g) the *Respondent* shall be entitled to attend and make representations to the *interim panel* in writing or orally, by themselves or by another on their behalf.

8.2 If the members of the *interim panel* are not unanimous as to any decision, the decision made shall be that of the majority of them. If the members of the *interim panel* are equally divided the decision shall be that which is most favourable to the *Respondent*.

9. Powers of *interim panels*

9.1 At the conclusion of the hearing the *interim panel*:

(a) may decide not to impose any *interim order*;

(b) may impose an *interim order* on the *Respondent;*

(c) may give interim *directions* to a *BSB authorised person* to whom notice has been given under regulation 7.4, to take any steps in relation to a *Respondent who is their manager or employee,* which may include limits on the type of work the *Respondent* is to be permitted to do, or on requirements as to their supervision or training; or

(d) may accept from the *Respondent* an undertaking in written terms satisfactory to the *interim panel* (and subject to such conditions as the *interim panel* may agree) which may include:

(i) being immediately *suspended* or *disqualified* by the *BSB*; or

(ii) carrying out their future activities in accordance with interim *conditions* on their authorisation or licence.

9.2 The *interim panel* may only impose an *interim order* under regulation 9.1 (b) or (c) if the *interim panel* considers that such an order is necessary:

(i) to protect the interests of clients (or former or potential clients);

(ii) to protect the public; or

(iii) otherwise in the public interest.

9.3 The *interim panel* may only accept an undertaking from a *Respondent* under regulation 9.1(d) if the *Respondent* has confirmed in writing that they accept that the following consequences may arise as a result of such an undertaking being provided, depending on the nature of the undertaking being provided:

(a) the removal of the relevant *BSB authorised individual*'s *practising certificate*, *litigation extension* and/or right to undertake *public access* work;

(b) the imposition of *conditions* on the relevant *BSB authorised person's* authorisation and/or licence;

(c) publication of the fact of such interim *suspension* or *disqualification or conditions* on the *BSB's* website; and

(d) either the inclusion of a note on the *BSB's* register of *BSB authorised persons* to the effect that such *BSB authorised person* is temporarily *suspended* from *practice* or the inclusion of the fact of such interim *disqualification* on the *BSB*'s register of individuals that are the subject of a *disqualification order.*

9.4 The *interim panel* shall, if any *interim order* is imposed under these Regulations:

(a) inform the *Respondent* and *any BSB authorised person* of their right to request a review as provided in regulation 10; and

(b) inform the *Respondent* and *any BSB authorised person* of their right of appeal as provided in regulation 12.

10. Right to request a review

10.1 At any time while an *interim order* or undertaking is in place under these Regulations, ~~the *BSB* or~~ the *Respondent,* ~~or~~ a *BSB authorised person* made subject to an interim *directions* order under regulation 9.1(c) or~~,~~ the BSB may make a request in writing to the *President* to convene a *review panel* to review the interim order or undertaking:

(a) in the event of a significant change in circumstances; or

(b) for any other good reason.

10.2 A request in writing under regulation 10.1 must set out the details of any alleged significant change in circumstances or any other good reason.

10.3 On receipt of such a request in writing, the *President* must invite representations in writing from ~~the *BSB,*~~ the *Respondent* or the *BSB authorised person* (if any) or the *BSB* respectively and thereafter the *President* may in their discretion convene a *review panel* or refuse the request.

10.4 In either case, the *President* shall notify the *Respondent, the BSB authorised person* (if any) and the *BSB* in writing of the decision whether or not to convene a *review panel* and the reasons.

10.5 There shall be no right of appeal from a decision to refuse to convene a *review panel*.

11. Procedure and powers of *review panels*

11.1 If the *President* decides to convene a *review panel,* the *President* shall:

(a) convene a *review panel* in accordance with regulation 4 on a date no more than twenty-one days from the date of the decision to convene a *review panel*;

(b) give reasonable notice in writing to the *Respondent*, the *BSB authorised person* (if any) and the *BSB* of the date, time and venue of the *review panel* hearing;

(c) inform the *Respondent,* the *BSB authorised person* (if any) and the *BSB* that they are entitled to make representations at the *review panel* hearing in writing or orally, by themselves or by others on their behalf.

11.2 The *President* may, at any time, whether of their own initiative or on the application of the *Respondent,* the *BSB authorised person* (if any) or the *BSB,* fix a new date or time for the *review panel* hearing.

11.3 The proceedings before a *review panel* shall be by way of a rehearing and regulations 8.1 and 8.2 above shall apply to the procedure of the *review panel* as if the references to the *interim panel* and the Chair of the *interim panel in regulations 8.1 and 8.2* were references to the *review panel* and the Chair of the *review panel* respectively.

11.4 At the conclusion of the hearing the re*view panel* may:

(a) confirm, set aside or vary an *interim order* imposed by an *interim panel* under these Regulations;

(b) confirm, set aside or vary an undertaking from the *Respondent*;

(c) accept from the *Respondent* an undertaking in written terms satisfactory to the Chair of the *review panel* (and subject to such conditions as the Chair of the *review panel* may agree) which may include:

(i) being immediately *suspended* or *disqualified* by the *BSB*; or

(ii) carrying out their future activities in accordance with interim *conditions* on their authorisation or licence.

11.5 If the hearing before a *Disciplinary Tribunal* of any charge or *disqualification application* related to the referral to an *interim panel* has commenced before the date fixed for a *review panel*, the date fixed for the *review panel* hearing shall be vacated and any *interim order* made or undertaking accepted by the *interim panel* shall continue until they are reviewed by the *Disciplinary Tribunal* or until the *disposal* of any such charge or *disqualification application* by the *Disciplinary Tribunal* in accordance with the BSB Disciplinary Tribunals Regulations 2027.

12. Right to appeal

12.1 A *Respondent,* or a *BSB authorised person* made subject to an interim *directions* order under regulation 9.1(c), has a right to appeal against an *interim order* imposed by an *interim panel* or a *review panel* by giving notice of appeal in writing to the *President* and the *BSB* not more than 14 days after the date of the decision of the *interim panel or review panel,* which must include their grounds of appeal.

12.2 As soon as practicable after receipt of a notice of appeal in accordance with regulation 12.1 above, the *President* shall:

(a) convene an appeal panel in accordance with regulation 5 on a date no more than twenty-one days from the date of the receipt of the notice of appeal;

(b) give reasonable notice in writing to the *Respondent*, the *BSB authorised person* (if any) and the *BSB* of the date, time and venue of the appeal panel hearing;

(c) inform the *Respondent*, the *BSB authorised person* (if any) and the *BSB* that they are entitled to make representations at the appeal panel hearing in writing or orally, by themselves or by others on their behalf.

12.3 The *President* may, at any time, whether of their own initiative or on the application of the *Respondent*, the *BSB authorised person* (if any) or the *BSB*, fix a new date or time for the appeal panel hearing.

13. Procedure and powers of appeal panels

13.1 The proceedings before an appeal panel shall be by way of a rehearing and regulations 8.1 and 8.2 shall apply to the procedure of the appeal panel as if the references to the *interim panel* and the Chair of the *interim panel* in regulations 8.1 and 8.2 were references to the appeal panel and the Chair of the appeal panel respectively.

13.2 At the conclusion of the hearing the appeal panel may:

(a) revoke the *interim order* imposed by an *interim panel* or a *review panel* under these Regulations;

(b) confirm or vary the *interim order;*

(c) accept from the *Respondent* in terms satisfactory to the Chair of the appeal panel an undertaking in writing in accordance with regulation 9(1)(d).

13.3 A pending appeal to an appeal panel shall not operate as a stay of any *interim order* which is the subject of the appeal.

13.4 The decision of an appeal panel is final and shall not be subject to any further appeal or reconsideration.

13.5 If the hearing before a *Disciplinary Tribunal* of any charge or *disqualification application* related to the referral to an *interim panel* has commenced before the date fixed for an appeal panel, the date fixed for the appeal panel hearing shall be vacated and any *interim order* made or undertaking accepted by the *interim panel* shall continue until they are reviewed by the *Disciplinary Tribunal* or until the *disposal* of any such charge or *disqualification application* by the *Disciplinary Tribunal* in accordance with the BSB Disciplinary Tribunals Regulations 2027.

14. Interim order ceases to have effect

14.1 Any *interim order* imposed or undertaking accepted under these Regulations shall cease, and the *Respondent* and any *BSB authorised person* shall cease to be bound by the terms of any *interim order* made or undertaking accepted under these Regulations, immediately upon:

(a) the *BSB* deciding to conclude its initial assessment or investigation of the matter which led to the referral to an *interim panel* relating to the *Respondent* with no action;

(b) the *BSB* or the Independent Decision-Making Panel deciding not to refer an *allegation* relating to the *Respondent* which led to the referral to an *interim panel* to a *Disciplinary Tribunal;* or

(c) a *Disciplinary Tribunal* making an order for *disposal* of all charges or *disqualification applications* relating to the *Respondent* which arose from the matter which led to the referral to an *interim panel.*

15. Costs

15.1 An *interim panel, review panel* and an appeal panel shall have no power to award costs.

16. Report and Publication of Decisions

16.1 As soon as practicable after the conclusion of an *interim panel, review panel* or appeal panel hearing:

(a) the decision of the panel shall be set down in writing and signed by the Chair; and

(b) the President shall send a copy of the written decision to all the parties to the hearing.

16.2 In any case where an *interim order* is imposed under these Regulations or an undertaking from a *Respondent* is accepted by the President, an *interim panel*, a *review panel* or an appeal panel the *President* may communicate as appropriate brief details in writing of that outcome to:

(a) the Commissioner for Conduct;

(b) the *Respondent*'s head of *chambers, HOLP* or *employer*;

(c) in the case of a registered European lawyer, their home professional body;

(d) the Treasurers of the *Respondent's Inn* of Call and of any other Inns of which they are a member;

(e) other Approved Regulators, the Legal Services Board and the Legal Aid Agency; and

(f) any other person or bodies that the *President* deems, in their absolute discretion, to be appropriate, taking into account the circumstances and the interim orders made.

16.3 The *BSB* shall:~~;~~

(a) keep a record of those who are subject to an *interim order* or undertaking under the procedures in these Regulations; and

(b) publish the fact of any *interim order* or undertaking on its website and in such of its registers as it considers appropriate, for as long as they remain in effect.

17. Notices

17.1 Any notice which is required to be given to a *Respondent or* other person or body arising out of or in connection with proceedings under these Regulations shall be deemed to have been validly given:

(a) if notice is given by e-mail where the recipient's e-mail address is known to the *BSB*:

(i) if the email is sent before 16:30 on a *business day*, on that day; or

(ii) in any other case, on the next *business day* after the day on which it was sent;

(b) if sent by registered post, or recorded delivery post:

(i) in the case of a *BSB authorised individual*, to the address notified by such *Respondent* pursuant to the requirements of Part 2 of the~~is~~ *Handbook* (or any provisions amending or replacing the same) as being their *practising address*;

(ii) in the case of a *BSB regulated person* or *non-authorised individual* acting as a *manager* or employee of a *BSB entity*, to the address provided by the *BSB entity* as being their home address or, in the absence of such information, to the address of the relevant *BSB entity* notified pursuant to the requirements of Part 2 of the~~is~~ *Handbook*;

(iii) in either case, to an address to which the *Respondent* may request in writing that such documents be sent; or

(iv) in the absence of any of the above, to their last known address or; in the case of a *BSB regulated person* or *non-authorised individual* acting as a *manager* or employee of a *BSB entity*, the last known address of the relevant *BSB entity*;

on the second day after it was posted, left with, delivered to or collected by the relevant service provider, provided that that day is a business day; or, if not, the next business day after that day;

(c) if notice is given by personal service:

(i) if the document is served personally before 16:30 on a *business day*, on that day; or

(ii) in any other case, on the next *business day* after that day;

(d) if notice is given in any other way which may be directed by the *President*.

Bar Standards Board Health Panel and Procedure Regulations 2027

Introduction

These regulations provide for a non-disciplinary regime where the *BSB* is notified of health issues which may affect a barrister's ability to practise.

They apply to practising barristers, pupils with a provisional practising certificate, and other *BSB Authorised Individuals* when concerns under these regulations are raised.

This introduction does not form part of the Bar Standards Board Health Panel and Procedure Regulations 2027.

1. Citation and commencement and interpretation

1.1 These regulations shall be known as the 'BSB Health Panel and Procedure Regulations 2027' and have been approved as an alteration to the regulatory arrangements of the Bar Council as an approved regulator by the Legal Services Board under Schedule 4, Part 3 of the Legal Services Act 2007.

1.2 These regulations shall take effect on [1 February] 2027 and shall apply to all cases referred to a Fitness to Practise Panel or an Appeal Panel prior to that date under the Fitness to Practise Regulations then applying, and any step taken in relation to any Fitness to Practise Panel or Appeal Panel pursuant to those Regulations shall be regarded as having been taken pursuant to the equivalent provisions of these regulations.

2. Interpretation and authorisation

2.1 In these Regulations the words and expressions which are italicised shall be interpreted in accordance with the definitions in Part 6 of the *Handbook* and, for the purpose of these Regulations, references to:

(a) an "*Individual"* shall be construed in accordance with the definition of a *"BSB authorised Individual "* in Part 6 of the *Handbook*;

(b) a "*Panel"* shall be construed as a reference to a *Health Panel* or Appeal Panel, or both, as the context requires.

2.2 In these Regulations, any reference to the singular shall include the plural and vice versa.

2.3 The *BSB* shall have the power to delegate to any person, group or body any function or power exercisable by the *BSB* or *an authorised decision-maker* under these Regulations; any such delegation must be in writing and may be either or both retrospective and prospective, and either or both general and for a particular purpose.

2.4 The *President* shall have the power to authorise any person, group or body to fulfil any function or exercise any power exercisable by the *President* under these Regulations; any authorisations given must be in writing and may be either or both

retrospective and prospective, and either or both general and for a particular purpose.

3. Referral to a *Health Panel*

3.1 Where the *BSB* receives information raising a concern that an *Individual* has a *health condition* impairing their ability to practise the matter shall be considered under regulation 3.3.

3.2 Prior to taking the steps in regulation 3.3 or 3.4, the *BSB* may carry out any investigation appropriate to the consideration of the criteria in regulation 3.3.

3.3 The *BSB* shall, following receipt of information under regulation 3.1, including during the *BSB's* consideration of referral under the BSB Enforcement Decision Regulations 2027, refer the matter to a *Health Panel* for determination where they consider there is a realistic prospect that an *Individual*:

(a) has a *health condition* impairing their ability to practise; and

(b) the imposition of a *restriction* or condition is necessary for the protection of the public or is otherwise in the public interest.

3.4 No decision under regulation 3.3 shall be taken without the *Individual* having been provided with an opportunity, as is reasonable in the circumstances, to comment on the matter.

4. Undertakings prior to referral to a *Health Panel*

4.1 Where information is received under regulation 3.1 or a referral under regulation 3.3 is being considered, the *BSB* may accept an undertaking from an *Individual* instead of making a referral to a *Health Panel* under regulation 3.3 where the *BSB* considers that is sufficient:

(a) for the protection of the public; or

(b) in the public interest.

4.2 For the purpose of this regulation, an undertaking is an agreement by the *Individual* to such a period of *restriction* or such conditions as the *BSB* may accept, in accordance with regulation 4.1.

4.3 A referral to a *Health Panel* under regulation 3.3 may still take place at any stage, where an undertaking has:

(a) been proposed but not agreed;

(b) been agreed by the *Individual* but the *BSB* considers it has not been complied with;

(c) been agreed but, as a result of new information, is no longer sufficient; or

(d) expired.

5. Convening a *Health Panel*

5.1 Where a referral is made under regulation 3.3:

(a) the *President shall:*

(i) convene a *Health Panel* in accordance with Schedule 1;

(ii) as soon as reasonably practicable, fix a date for any preliminary meeting or a full meeting;

(b) *BTAS* shall notify both the *Individual* and the *BSB* of the date, time and location of any meeting fixed.

5.2 Where an appeal is made under regulation 12, *the President* shall convene an Appeal Panel in accordance with Schedule 1 ~~and *BTAS* shall notify the *Individual* and the *BSB* as described in regulation 5.1(b)~~.

5.3 Regulation 5.1(a) and (b) shall also apply in respect of any review meeting under regulation 10 or 11.

6. Preliminary meetings

6.1 A notice of a preliminary meeting sent under regulation 5.1(b) shall:

(a) contain a summary of the case and the reasons why it has been referred to a *Health Panel*;

(b) inform the *Individual* of their right to attend and be represented at the preliminary meeting, and to produce evidence at the preliminary meeting, in accordance with regulations 13.1(b) and 13.1(c)(ii);

(c) inform the *Individual* of the *Health Panel's* powers at a preliminary meeting under regulation 6.2 to give directions and under regulation 8 make an interim measure; and

(d) inform the *Individual* of their right to appeal under regulation 12.

6.2 At a preliminary meeting, the *Health Panel* may give such directions as it considers appropriate in respect of the full meeting, which may include that:

(a) the *Individual*, within a specified period of time, submit to a relevant medical examination or other assessment to be carried out by a *Medical Examiner* or other expert with appropriate expertise as may be specified by the Panel;

(b) the *BSB* instruct *a Medical Examiner* or other expert to conduct such medical examination or other assessment and to provide a report setting out an opinion as to whether the *Individual's* ability to practise is impaired as a result of a *health condition* or any other matters as may be specified by the Panel;

(c) the *Individual* authorise disclosure to the *BSB* and the *Medical Examiner* or other expert, of such of their relevant medical or other records as may be reasonably required for the purposes of the medical examination or other assessment and subsequent report;

(d) the *BSB* carry out such other investigations or seek such advice or assistance as the Panel considers appropriate to the matters for consideration at the full meeting, and where it gives a direction under regulation 6.1(a) or (c) above, it shall inform the *Individual* that failure to comply with the direction may be taken into account by the Panel in accordance with regulation 9.3(b).

7. Medical Examinations or other assessments

7.1 Where a relevant medical examination or other assessment is directed by a *Health Panel* under regulation 6.2 or 9.4(b):

(a) the relevant medical examination or other assessment of the *Individual* shall be arranged in accordance with any directions from the Panel;

(b) the *Medical Examiner* or other expert shall, where an examination or other assessment has been undertaken, prepare a report which expresses an opinion as to:

(i) whether the *Individual* has a health condition;

(ii) whether the *Individual's* ability to practise is impaired on the basis of a health condition;

(iii) how such impairment could be managed, including by the provision of any reasonable adjustments; or

(iv) any other matters which they have been instructed to address, in accordance with any directions of the Panel; and

(c) where requested by the *BSB* to do so, the *Medical Examiner* or other expert shall attend a meeting to present their findings.

8. Interim measures

8.1 At a preliminary meeting held under regulation 6 or a full meeting held under regulation 9, a *Health Panel* may, where it is satisfied that it is necessary to protect the public or is otherwise in the public interest, direct that the *Individual* is subject to an interim *restriction* or interim conditions.

8.2 An interim measure imposed under regulation 8.1 shall have effect pending the determination of the matter at a full meeting before the *Health Panel*.

8.3 Instead of imposing an interim measure under regulation 8.1, the Panel may accept from the *Individual* an undertaking in writing on terms satisfactory to the Panel:

(a) agreeing to an immediate interim *restriction* for such period as may be agreed; or

(b) as to the *Individual* 's conduct or behaviour pending the conclusion of the full meeting.

8.4 The Chair of the Panel shall record, in writing, the decision of the Panel, together with its reasons and the terms of any interim measure imposed or undertaking accepted.

9. Full meetings

9.1 As soon as reasonably practicable after receipt of any report prepared by a *Medical Examiner* or other expert, or where no report has been prepared and the *BSB* considers that the case is ready for a full meeting, *BTAS* shall send a notice under regulation 5.1(b) in writing of the meeting to the *Individual* and *the BSB* which shall:

(a) contain a summary of the case, a copy of any report and any other documents;

(b) inform the *Individual* of their right to attend and be represented at the meeting, and to produce evidence at the meeting, in accordance with regulation 13.1(b) and 13.1(c)(ii);

(c) inform the *Individual* of the Panel's powers at a full meeting to make an order under regulation 9.4 and accept an undertaking under regulation 9.5; and,

(d) inform the *Individual* of their right to appeal under regulation 12.

9.2 At a full meeting, the *Health Panel* shall decide:

(a) whether the *Individual* has a *health condition* impairing their ability to practise; and

(b) if so, whether the imposition of a *restriction* or conditions under regulation 9.4 or the acceptance of an undertaking under regulation 9.5 is necessary for the protection of the public or is otherwise in the public interest.

9.3 In reaching its decision under regulation 9.2, the Panel shall be entitled to take into account:

(a) the *Individual's* current *health condition*, any continuing or episodic condition experienced by the *Individual*, or any condition experienced by the *Individual* which, although currently in remission, may be expected to cause impairment if it recurs; and

(b) any failure by the *Individual* to comply with:

(i) any undertaking accepted under regulation 4.1 or 8.3;

(ii) a direction to undergo a relevant medical examination or other assessment made under regulation 6.2;

(iii) any interim measure made under regulation 8.1;

(iv) any other direction by the Panel.

9.4 Where the Panel has decided that an *Individual's* ability to practise is impaired by a *health condition* and the imposition of a *restriction* or conditions is necessary for the protection of the public or is otherwise in the public interest, the Panel may order:

(a) that the *Individual* be subject to a *restriction* with such conditions as the Panel may consider appropriate, and which may be imposed for a period not exceeding 36 months;

(b) that the *Individual* 's right to continue to practise, or to resume practice after any period of *restriction* shall be subject to such conditions as the Panel may think fit, including that the *Individual*:

(i) submit for regular examination or other assessment before a *Medical Examiner* or other expert nominated by the Panel and follow any treatment they recommend in respect of any *health condition*, which the *Panel* consider is impairing the *Individual's* ability to practise;

(ii) authorise disclosure to the *BSB* and the *Medical Examiner* or other expert such of their medical or other records as may be reasonably required for the purposes of the medical examination or other assessment and subsequent report.

9.5 In lieu of imposing any order under regulation 9.4 above, the *Health Panel* may accept from the *Individual* a written undertaking in which the *Individual* agrees to a period of *restriction* or conditions.

9.6 Where it has made an order under regulation 9.4 or accepted an undertaking under regulation 9.5, the Panel shall inform the *Individual*:

(a) of their right to request a Panel to review any order made, or undertaking agreed, under regulation 10;

(b) of their right of appeal against an order under regulation 12; and

(c) that a failure to comply with the order or undertaking may result in a charge of *professional misconduct* being brought against the *Individual* before a *Disciplinary Tribunal*.

9.7 A *Health Panel* may give directions in respect of a full meeting which may include any of the matters at regulation 6.2.

9.8 The Chair of the Panel shall record, in writing, the decision of the Panel, together with its reasons and the terms of any order made or undertaking accepted.

10. Review of decisions made by a *Health Panel*

10.1 At any time during which an *Individual* is subject to a period of *restriction* or conditions ordered or undertaking under these Regulations either the *Individual* or the *BSB* may make a request in writing for a review to the *President* where they consider that there:

(a) has been a significant change in the *Individual's* circumstances; or

(b) there is some other good reason for a review to be undertaken.

10.2 Upon receipt of a request under regulation 10.1, the *President* shall consider the information provided as to any significant change or other good reason and may refer the matter to a *Health Panel* for a review.

10.3 Where a case has been referred to a *Health Panel* for a review meeting under regulation 10.2, regulation 9 shall apply with necessary modifications and the Panel shall also have the power to impose an interim measure under regulation 8.

10.4 At the conclusion of a review meeting, the *Health Panel* may:

(a) confirm or revoke the order made or undertakings agreed;

(b) extend or vary (or further extend or vary) the period for which the order has effect, or agree with the *Individual* an extension or variation of the period for which an undertaking has been agreed;

(c) replace the order or undertaking, exercising any of the powers available to a *Health Panel* under regulation 9.

10.5 Where a case has been referred to a *Health Panel* for a review under regulation 10.2 and the review meeting cannot be concluded before the expiry of any period of *restriction* or conditions imposed under regulation 8 or 9.4 or undertaking accepted under regulation 8.3 or 9.5, the Chair of the *Health Panel* may extend the *restriction*, conditions or undertaking for such period as they consider necessary to allow for the conclusion of the review.

11. Continuation of *restriction* or conditions

11.1 Where an *Individual* is subject to a period of *restriction* or conditions (which has been imposed for more than 12 months but less than 36 months~~or more~~), then prior to the expiry of that period *BTAS* shall arrange a review meeting by a *Health Panel* for the purpose of considering whether:

(a) the *Individual* continues to have a *health condition* impairing their ability to practise; and

(b) the imposition of a *restriction* or conditions continues to be necessary for the protection of the public or is otherwise in the public interest.

11.2 At a review meeting under regulation 11.1, the *Health Panel* may revoke, vary, confirm or extend a period of *restriction* or conditions, or substitute a *restriction* for conditions.

11.3 In lieu of imposing any order under regulation 11.2 above, the *Health Panel* may accept from the *Individual* a written undertaking in which the *Individual* agrees to a period of *restriction* or conditions.

11.4 A *Health Panel* may hold a further review meeting at any stage and make any of the orders in regulation 11.2 or accept undertakings under regulation 11.3.

11.5 Where an *Individual* is~~will be~~ subject to a period or periods of *restriction* or conditions, which when taken together or otherwise ~~for a~~ total a period of 36 months, then prior to the expiry of that period *BTAS* shall arrange a ~~further~~ review meeting by a *Health Panel* for the same purpose as regulation 11.1 and at such a meeting the Panel may:

(a) make any of the orders in regulation 11.2 or accept undertakings under regulation 11.3; or

(b) order that a *restriction* or condition takes effect indefinitely, in which case the *Health Panel* must inform the *Individual* of their right to request a review under regulation 10.1.

11.6 At a review meeting following an order being made under regulation 11.5, a *Health Panel* may:

(a) make any of the orders in regulation 11.2; or

(b) maintain the order under regulation 11.5(b).

11.7 A *Health Panel* conducting a review under this regulation may make such directions as it thinks fit, which may include any of those listed at regulation 6.2.

12. Appeals before an Appeal Panel

12.1 An *Individual* or the *BSB* may appeal a decision of a *Health Panel* under regulation 9.4, 10.4, 11.2, 11.4, 11.5 and 11.6~~5~~ to impose, extend, vary, replace a period of *restriction* or conditions, or not to make an order, by notifying the *President* and the other party in writing that they wish to do so and stating the grounds of appeal, no more than 14 days after the date of the decision subject to appeal.

12.2 As soon as reasonably practicable after receipt of an appeal under regulation 12.1, *BTAS* shall send a notice in writing of the appeal meeting to the *Individual*, which shall inform the *Individual* of:

(a) the time, ~~and~~ date and location of the appeal meeting;

(b) their right to attend and be represented at the meeting, and to produce evidence at the meeting, make representations and ask questions, in accordance with regulation 13.1(b) and 13.1(c)~~(ii)~~; and

(c) the Panel's powers under regulation 12.4 below.

12.3 *BTAS* shall also send a copy of notice referred to in regulation 12.2 to the *BSB*.

12.4 At the conclusion of an appeal meeting, the Appeal Panel may:

(a) allow the appeal;

(b) confirm the decision that is subject to appeal;

(c) exercise any of the powers of a *Health Panel*.

12.5 The Appeal Panel shall inform the *Individual*:

(a) of their right to request a *Health Panel* to review any order made, or undertaking accepted, under regulation 10; and

(b) that failure to comply with a *restriction* or condition imposed under regulation 12.4 may result in a charge of professional misconduct being brought before a *Disciplinary Tribunal*.

12.6 The Chair of the Panel shall record, in writing, the decision of the Panel, together with its reasons, and the terms of any *restriction* or conditions imposed or undertakings accepted.

12.7 An appeal under regulation 12.1 shall not prevent the decision being appealed from taking effect.

12.8 There shall be no right of appeal against a decision of an Appeal Panel.

13. Conduct of *Health Panel* and Appeal Panel meetings

13.1 Any *Health Panel* or Appeal Panel meeting:

(a) shall be informal, with the Panel regulating its own procedure;

(b) the *Individual* shall attend and may be represented, save that where the *Individual* does not attend and is not represented, the Panel may nevertheless proceed if it is satisfied:

(i) that all reasonable efforts have been made to serve the *Individual* with notice in writing of the meeting in accordance with these Regulations; and

(ii) that it is appropriate to do so;

(c) the *Individual* may, on their own behalf or through their representative:

(i) make representations in writing or orally,

(ii) produce evidence, provided (but subject to the discretion of the Panel) that such evidence has been submitted no less than 24 hours prior to the date fixed for the meeting, and

(iii) put questions to any *Medical Examiner* or other expert whose report is in evidence before the Panel;

(d) shall be in private, unless the *Individual* requests the meeting to be held in public; and

(e) shall be recorded electronically.

13.2 Decisions of a *Health Panel* and Appeal Panel shall take decisions by simple majority and where the votes are equal the issue shall be decided:

(a) at a meeting before a *Health Panel*, in the *Individual* 's favour; and

(b) in a meeting before an Appeal Panel, against the party who brought the appeal.

13.3 If at any time it appears to a Panel that it would be appropriate to do so, the Panel may refer the case to the *BSB* for consideration of whether to refer any matter for a hearing before a *Disciplinary Tribunal*.

13.4 Where it considers it necessary, a Panel may appoint a medical advisor to assist with any decision under these Regulations:

(a) by providing independent advice either orally or in writing; and

(b) such advice must be provided in the presence of the parties or, where the parties are not present at the meeting, copied to the parties as soon as reasonably practicable.

13.5 At any review meeting before a *Health Panel* or appeal meeting before an Appeal Panel, copies of the report of any expert or any proof of evidence referred to at any previous meeting of the Panel in respect of the same case may be referred to by the Panel.

13.6 *Health Panels* and Appeal Panels shall have no power to award costs.

13.7 Proceedings before an Appeal Panel shall be by way of a rehearing.

14. Postponement, adjournment and cancellation

14.1 Before the opening of any meeting in which notice has been served in writing in accordance with these Regulations, the Chair of the *Health Panel* or Appeal Panel may, of their motion or on the application of the *BSB* or the *Individual*, postpone the meeting until such time and date as they think fit.

14.2 Where any meeting under these Regulations has commenced, the *Health Panel* or Appeal Panel considering the matter may, at any stage in the proceedings, whether of its own motion or on the application of the *BSB* or the *Individual*, adjourn the meeting until such time and date as it thinks fit.

14.3 No meeting shall be postponed or adjourned under regulations 14.1 or 14.2 unless the *Individual* has been given reasonable opportunity to make representations on the matter.

14.4 Where a meeting has been postponed or adjourned, the parties shall be notified as soon as reasonably practicable of the time, of the date and place at which the meeting is to take place or to resume.

14.5 Where notice of meeting has been served in writing under these Regulations, the Chair of the *Health Panel* or Appeal Panel may, on application of the *BSB* or the *Individual*, cancel the meeting where the Chair considers that there are no reasonable grounds for questioning whether the *Individual's* ability to practise is impaired as a result of a *health condition*.

15. Notice and publication of decisions

15.1 Where a decision has been taken by a *Health Panel* or an Appeal Panel under these Regulations, *BTAS* shall, as soon as reasonably practicable, serve notice in writing of the decision on the *Individual* concerned.

15.2 Where a decision is taken at a full meeting of a *Health Panel* or at an Appeal Panel, unless the decision is to take no action and the *Individual* is permitted to continue to practise without *restriction* or conditions, *BTAS* shall provide notice in writing of the decision to the *BSB* and any person to who the Panel Chair considers it to be in the public interest to do so.

15.3 The BSB may as appropriate:

(a) keep a record of those who are subject to an order or undertaking under the procedures in these Regulations; and

(b) annotate the fact of any order or undertaking under these Regulations on the *BSB's* register of *BSB authorised persons*, which is to be maintained by the *BSB* or include on the *BSB's* register of individuals that are the subject of a *disqualification order*.

16. Service of documents

16.1 Any documents required to be served on an *Individual* in connection with meetings under these Regulations shall be deemed to have been validly served:

(a) if service is given by e-mail where the recipient's e-mail address is known to the *BSB*:

(i) if the email is sent before 16:30 on a *business day*, on that day; or

(ii) in any other case, on the next *business day* after the day on which it was sent;

(b) if sent by registered post, or recorded delivery post pursuant to the requirements of Part 2 of the~~is~~ *Handbook* (or any provisions amending or replacing the same) as being their *practising address*, on the second day after it was posted, left with, delivered to or collected by the relevant service provider, provided that that day is a business day; or, if not, the next business day after that day;

(c) if service is given by personal service:

(i) if the document is served personally before 16:30 on a *business day*, on that day; or

(ii) in any other case, on the next *business day* after that day;

(d) if service is given in any other way which may be directed by the *President*.

Schedule 1 – Constitution of *Health Panel*s and Appeal Panels

1. *BTAS* shall appoint and ensure that arrangements are in place to be able to access suitably qualified medical advisors to *Health Panels* and Appeal Panels.

2. A *Health Panel* shall consist of three members nominated by the *President* comprising:

   (a) a Chair, who shall be a King's Counsel;

   (b) a *practising barrister*; and

   (c) a *lay member*.

3. An Appeal Panel shall consist of three members nominated by the *President* comprising:

   (a) a Chair, who shall be a King's Counsel;

   (b) a *practising barrister*; and

   (c) a *lay member*.

4. The persons nominated by *the President* to sit on a *Health Panel* or Appeal Panel must be selected from the pool appointed by the *Tribunal Appointments Body.*

5. No person shall be selected to sit on a *Health Panel* or an Appeal Panel if they are a member of the *BSB*, any of its other Committees or the *Independent Decision-Making Body*.

6. No person who is appointed to sit on an Appeal Panel shall have sat on either the *Health Panel*, whether at a preliminary or full meeting, including a review, considering the same matter

7. The proceedings of a *Health Panel* or an Appeal Panel shall be valid notwithstanding that one or more members of the Panel become unable to sit or are disqualified from sitting on the Panel, or are replaced by another member from the appropriate list, subject to there being a minimum of two Members which shall include a Chair and a lay member.

8. The validity of the proceedings of a Panel shall not be affected by any defect in the appointment of a member.

9. Any function exercisable by a Panel Chair in these Regulations shall be exercised by a person nominated from time to time by the *President*.

List of Part 6 revisions

Definitions to be added:	
Term	**Proposed definition**
authorised decision-maker	means a person authorised by the *BSB* under a scheme of delegation to make a specific type of decision under the Enforcement Regulations.
BSB	means the *Bar Standards Board.*
business day	means any day except Saturday, Sunday, Good Friday, Christmas Day or a bank holiday under the Banking and Financial Dealings Act 1971 in England or Wales.
Commissioner for Conduct	means the Commissioner for Conduct appointed by the *Bar Council* to address issues of bullying, harassment and sexual harassment.
conditions (order)	means an order directing *an applicable person* to carry out their future activities in accordance with conditions on their authorisation or licence.
directions (order)	means an order directing a *BSB authorised person* to take steps in relation to a *manager* or employee of that *BSB authorised person* which may include limits on the type of work the *manager* or employee is to be permitted to do, or on requirements as to their supervision or training.
disqualification application	means an application for a *disqualification order.*
disposal	means the dismissal or making of a final order or sanction by a *Disciplinary Tribunal* in relation to a charge of professional misconduct or a *disqualification* application.
Enforcement Regulations	means the BSB Enforcement Decision Regulations 2027, BSB Disciplinary Tribunals Regulations 2027, BSB Interim Order Regulations 2027 and BSB Health Panel and Procedure Regulations 2027.
health condition	means a physical or mental health condition (including addiction).

Health Panel	means a panel constituted under the BSB Heath Panel and Procedure Regulations 2027.
interim order	means an order for interim *suspension*, interim *disqualification*, interim *conditions,* interim *directions* or an interim *restriction* made under the *Enforcement Regulations*
Judge	~~may~~ means a person who holds or has held a judicial office in England and Wales and includes, for the avoidance of doubt, a retired judge or a judge sitting in retirement.
litigation extension	means extension to a *practising certificate* or an authorisation or licence permitting the *conduct of litigation.*
party	in the BSB Disciplinary Tribunals Regulations 2027 means, as the case may be, either the Respondent or the *BSB*.
regulatory obligation	means any obligation under any part of the *BSB Handbook* or *Code of Conduct* or the *Enforcement Regulations* or under any rules, regulations or other regulatory arrangements of the BSB that replace or supplement them, however described.
Sanctions Guidance	means Guidance published by *BTAS* from time to time on the application of sanctions.
Definitions to be amended:	
allegation	means a *report*, or part of a *report*, which discloses a potential breach of a *regulatory obligation* by an *applicable person* or potentially satisfies the *disqualification condition* and is treated as an allegation under the BSB Enforcement Decisions Regulations 2027.
Convening order	means an order made by the *President* under regulation 10.2 of the BSB Disciplinary Tribunals Regulations 2027.
lay member	means either: (a) a *lay person* appointed to be a member of the *Bar Standards Board*, one of its regulatory committees or *the Independent Decision-Making Body*; or, (b) a *lay person* appointed by the *President* to serve on *Disciplinary Tribunals, interim panels, review panels* and

	appeal panels therefrom, and *Health Panels* and *Appeal Panels* therefrom.
realistic prospect of a finding of professional misconduct being made	means that the *authorised decision-maker* or an *Independent Decision-Making Panel* considers, on the information then available to it and having regard to the evidence which it regards as likely to be available at any tribunal or final determination of an *allegation*, that it is more likely than not that a finding of professional misconduct will be made.
realistic prospect of the disqualification condition being satisfied	means that the *authorised decision-maker* or an *Independent Decision-Making Panel* considers, on the information then available to it and having regard to the evidence which it regards as likely to be available at any tribunal or final determination of an *allegation*, that it is more likely than not that it shall be determined that the *disqualification condition* has been satisfied.
suspended/suspension	means to suspend the *practising certificate*, licence or authorisation of a *BSB authorised person*, either generally or in respect of any separate authorisation that person may have to *conduct litigation* or to carry out public access work, which power when exercised on an interim basis, shall be exercised in accordance with the BSB Interim Order Regulations and when exercised in health proceedings shall be exercised in accordance with the BSB Health Panel and Procedure Regulations 2027.
restriction	means a *suspension* or *disqualification*, imposed, extended, varied or replaced by a panel under the Health Panel and Procedure Regulations 2027
consequential amendments	We note that any cross-references to the current regulations (Parts 5A-D) will need to be updated in Part 6 and other Parts of the Handbook to refer to the correct sections of the new Regulations, once approved.
Definitions to be deleted or moved:	
'an association' move in index to '*association'* *'the standard directions'* move in index to *'standard directions'*	

Appeal panel - **remove definition**

Fitness to practice panel – **remove definition**

'Professional misconduct' – **remove definition**

Unfit to practise **- remove definition**