

## Social Media – Assessment of Reports

### Policy Statement

#### Introduction

This statement sets out the revised approach to be adopted by the BSB, with effect from Monday 2 February 2026, to the *assessment* of “Reports” received relating to the social media use and activity of barristers. The approach applies to any Report not assessed by or received after 2 February. It does not apply to any stage of investigation or enforcement after that initial assessment stage.

Following a marked increase in Reports, we reviewed our approach to assessment and have decided to change our procedure for the assessment of Reports about social media use. Under the revised approach, unless a Report is from an individual who is identified or clearly identifiable and personally targeted in the social media activity which is the subject of the Report, we will treat the Report as akin to “intelligence” for the BSB to handle as a regulator – which might lead to enforcement action but without the expectation of any engagement with the provider or source of such intelligence. This means that, with the exception of the group of persons described above to whom this new approach will not apply, we will not engage with any individual or organisation who reports social media use to us beyond an acknowledgement of receipt and unless we require further information or witness evidence.

In particular, the intelligence provider would not be entitled to request any update on the progress of the assessment, or to be notified of the outcome and the reasons for it or to request any review of a decision by the BSB as to the handling of the matter.

This will avoid the application of time and resource on matters in which individuals have no direct interest or standing, enabling us to direct our resources more effectively to the increasing number and complexity of Reports.

#### The Bar Standards Board

We are the independent regulator of barristers and other specialised legal services businesses, and their employees and managers, in England and Wales. While the General Council of the Bar (Bar Council) is the approved regulator under the Legal Services Act 2007, the Bar Council has delegated its regulatory functions to the independent BSB.

We play a key role, acting in the public interest, in authorising barristers and assessing their suitability to practise, setting the standards by which they operate and acting where appropriate when they fail to meet those standards. We also actively

promote an effective market for barristers' services, using our regulatory tools to improve competition, access to affordable services and high-quality justice for consumers.

We have a duty under the Legal Services Act 2007 to act, so far as is reasonably practicable, in a way which is compatible with the regulatory objectives when discharging our regulatory functions. The regulatory objectives are:

- protecting and promoting the public interest;
- supporting the constitutional principle of the rule of law;
- improving access to justice;
- protecting and promoting the interests of consumers;
- promoting competition;
- encouraging an independent, strong, diverse and effective legal profession;
- increasing public understanding of the citizen's legal rights and duties;
- promoting and maintaining adherence to the professional principles.

These are that barristers should act with independence and integrity, maintain proper standards of work, act in the best interests of their clients, comply with their duty to the court to act with independence in the interests of justice, and keep the affairs of their clients confidential; and

- promoting the prevention and detection of economic crime.

We also have a duty under the Legal Services Act 2007 to have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted where action is needed.

We are a values-based organisation and aim to act with:

- fairness and respect** – we strive to achieve equal access and equal treatment, valuing and respecting our differences;
- independence and integrity** – we are objective and evidence-based, open, honest and accountable, and we expect everyone to meet these same ethical standards; and
- excellence and efficiency** – we are committed to learning and improving, seeking to maximise our effectiveness by making the best possible use of our resources.

### **Additional regulatory obligations**

The BSB must also have regard to its duty under section 149 of the Equality Act 2010. This provides that:

(1) A public authority must, in the exercise of its functions, have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Our changed policy approach concerns the exercise of our regulatory functions and so we have considered the equality impacts in accordance with section 149 (see further below).

### **Enforcement process - assessment of reports**

To ensure fairness and consistency in how we handle Reports of potential breaches of the BSB Handbook, we generally follow a standard four-stage process. This proposal only applies to the first stage - assessment.

Further information is also available on our website (see [How we make enforcement decisions](#)).

The first stage involves an initial assessment of information received by the BSB that may indicate that a breach of the BSB Handbook has occurred. It is part of the role of the BSB's Contact and Assessment Team, pursuant to rE2 of the Enforcement Decision Regulations 2019, to gather information (including reports from third parties) for the purpose of assessing whether there is evidence of a potential breach of the BSB Handbook that is apt for further investigation.

If the Contact and Assessment Team considers that there is evidence of a potential breach which, after undertaking a risk assessment, warrants an investigation, they may recommend that the Report be the subject of an investigation. The report is then referred to the Investigations and Enforcement Team, who may decide to treat the Report as an “allegation” in accordance with rE12 of the EDRs, if they consider that the report discloses a potential breach of the Handbook or it potentially satisfies the disqualification condition. In making this determination under rE12, the team must have regard to a number of factors set out in rE13, including whether the disclosed conduct presents sufficient risk to the regulatory objectives and can be properly and fairly investigated.

The Regulations do not impose any obligation to communicate the outcome of assessment decisions to the provider of the Report.

## **Assessment of reports – social media guidance**

The use of social media has exploded over recent years and barristers are no exception. As the regulator of the Bar, we take an interest in the behaviour of barristers on social media to ensure public trust and confidence in the profession.

We regularly receive reports of barristers posting material or comments that some find to be objectionable or even seriously offensive. Since the start of April 2025, we have received over 200 Reports relating to barristers' use of social media. They come from a range of sources - members of the public, other barristers, organisations and campaign groups. Very few are from persons who are identifiable or clearly identified and personally targeted in the material. but are often from those who object to a barrister's views or positions on topical political or social issues, such as the Middle East or gender rights issues.

We have published [guidance](#) for the profession on the use of social media and case law also continues to develop in this area, for example in the recent case of [SRA v Husain](#).

When considering whether a Report about social media use discloses evidence of a potential breach of the Handbook, we have regard to the fact that barristers, and indeed all individuals, regardless of their political opinions, are entitled to freely express themselves. This is both a common law right and a right enshrined in the European Convention on Human Rights ("ECHR"), incorporated into law in England and Wales by the Human Rights Act 1998. Case law from the European Court of Human Rights has emphasised that the right to freedom of expression is applicable not only to "*information*" or "*ideas*" regarded as inoffensive or as a matter of indifference, but also those that "*offend, shock, or disturb*". Speech does not lose its protection because it is abrasive in tone or liable to offend some of those who hear it.

However, the right to free speech is not unfettered and, in some circumstances, regulatory action which may interfere with the right is lawful and justified as a proportionate means of achieving a legitimate aim. As per the BSB's social media guidance, this may include instances where the manner of expression involves gratuitous personal abuse, derogatory racist or sexist language, or where it is seriously offensive and disparaging.

As set out in *Holbrook v BSB* (and recently approved by the High Court in *Husain v SRA*) where something is seriously offensive, there still must be a '*close consideration of the facts to establish that the speech had gone beyond the wide latitude allowed for the expression of a political belief, particularly where the speech was delivered without any derogatory or abusive language and the objection was taken to the political belief*

*or message being espoused, rather than the manner in which that belief or message was being delivered’.*

### **Assessment experience – social media**

Due to the number and nature of social media reports, which can often involve long trails of commentary and context, the assessment of social media reports can be time consuming and complex. We must balance the rights of the individual barrister, particularly when posting in a non-professional capacity, against their professional obligations.

Very few of the Reports meet the high threshold for action, e.g. of being ‘seriously offensive’, inciting violence, or involving racist or other discriminatory views, and we close a high proportion of them at the assessment stage. Yet each can take several hours to review. We then engage with the reporters to explain why we are not progressing a Report further which may involve further reviews.

In view of the diversion of significant resource to handling such Reports, the very low rate at which these are taken forward for further regulatory action and the process by which we engage with those reporting the conduct to us, which may invoke further reviews, we have decided to change the way we approach these Reports. Going forward, the way we deal with these Reports will depend on whether the person making the report to us is identified or clearly identifiable and personally targeted by the barrister’s conduct.

### **Revised policy**

In all cases, we will still assess whether there is a case for enforcement or other action, having regard also to our social media guidance and relevant case law.

However, we are not a complaints adjudicator and many of the concerns can be raised directly with the barrister or their chambers or employer. Where the person making the report is not identified or clearly identifiable and is not personally targeted by the barrister’s conduct on social media, we will treat the Report as information and intelligence to assist us in our role as a regulator. We may refer the information onto our supervision function, to chambers or for investigation as part of our enforcement process. Unless required for the purpose of the case, which is unlikely where the posting is not personal to the reporter, we will not write to the reporter to let them know how we propose to respond or what, if any action, we have decided to take. Any disciplinary hearings outcomes will be published on the BTAS website in the usual way.

Where the reporter is identified or clearly identifiable and is personally targeted, we will assess the Report in line with our usual processes and notify the reporter of our decision and the reasons for it. The reporter may in that case also be able to request a review of a decision in accordance with our policies.

We estimate that this revised approach will save the resource of a full-time assessor – freeing time and resource to handle the growing list of other reports and investigations.

### **Duty to give reasons**

As a public interest regulator, we must have regard to the efficient use of resources and the regulatory objectives as whole. We must respond to changing circumstances and set and reset priorities and resources accordingly. We have concluded that to continue the assessment of social media reports as in the past is not in the public interest and impedes our ability to target our resources at the cases in which action is needed most and to discharge our regulatory functions proportionately.

Where a reporter is not identified or clearly identifiable and is not personally targeted by the barrister's conduct, that person might properly be regarded as a "bystander" who does not have any particular legal right or obligation which is impacted by the assessment process. Without personal standing, we do not think that the change of approach outlined above impacts individuals' legal rights or other reasonable expectations and so should not create any unfairness.

We will continue to have regard to all information provided to us as the regulator and will decide proactively whether information provided warrants further regulatory action, but without the direct engagement with the reporter.

If that person is not directly interested or impacted by any outcome eg sanction, there would not be a basis for any engagement or opportunity or expectation to be informed of a decision. The barrister would of course still be notified of any matter that is assessed and progresses for enforcement, but not of receipt otherwise.

### **Equality Impact Assessment**

We have completed an Equality Impact Assessment (EIA) on the proposals and believe that they are unlikely to unlawfully discriminate against individuals with protected characteristics. Although social media content targeted in age, race, sex and disability may be offensive, it is not necessarily unlawful or compels intervention by the BSB. We believe that the changes we are proposing are, therefore, a proportionate means to achieve a legitimate aim.