

# BAR STANDARDS BOARD

REGULATING BARRISTERS

## **Guidance on the procedure for dealing with complaints of discrimination and/or victimisation or harassment**

### **1. Areas covered by this guidance document**

1.1. This document concerns:

- a. All complaints concerning alleged direct, or indirect, discrimination (including harassment and victimisation) on the grounds of race, colour, ethnic or national origin, nationality, citizenship, sex, gender re-assignment, sexual orientation, marital or civil partnership status, disability, age, religion or belief, contrary to the BSB Handbook (Rule rC12 of the Conduct Rules (Section C));
- b. Any other matter within the knowledge of an appropriate Case Examiner where it is considered appropriate by the Case Officer to offer advice on equality and diversity issues.

### **2. Procedure**

- 2.1. On receipt of a complaint, the PCD's Assessment Team will consider whether further documents, information or clarification of the complaint is required. If so, the Assessment Team will contact the complainant for the information.
- 2.2. Once any additional information has been received, or if upon receipt of the complaint no further information or documents appear to the Assessment Team to be required from the complainant, the Assessment Team Manager will give consideration to seeking advice from an appropriate member of the Professional Conduct Committee (PCC), a 'Case Examiner'.
- 2.3. Should the Assessment Team Manager decide that advice is necessary the Assessment Team will send the PCD file (or a copy of it), together with a summary of the complaint and the specific issue(s) upon which the advice is being sought. The complainant and those against whom the complaint is made will be informed by the PCD's Assessment Team that advice is being sought from a member of the PCC.
- 2.4. If the Case Examiner considers that there is some evidence to substantiate the complaint of direct or indirect discrimination in breach of the BSB Handbook, they will advise, with brief reasons, the PCD Assessment Team who will then refer the complaint to the PCD Investigations and Hearing's Team for investigation.

- 2.5. If the Case Examiner considers that further information or documents are required from the complainant, then that view will be communicated to the Assessment Team, usually by email, who will make the further enquiries as advised. Once the further information or copy documents are received by the Assessment Team, the complaint will be referred back to the Case Examiner for further consideration.
- 2.6. Where the Case Examiner considers that the complaint of discrimination is not substantiated, s/he will notify the PCD's Assessment Team and give reasons.
- 2.7. When a file is forwarded to the Case Examiner, the Case Examiner will consider the papers and reply within three weeks.
- 2.8. Where the Assessment Team Manager decides that it is not necessary to seek specialist advice from an appropriate member of the PCC, s/he will inform the Assessment Team or his or her decision and the usual procedures will follow. In the absence of the Assessment Team Manager, this decision can be taken by the Investigations and Hearings Team Manager or by the Director of the PCD.

### **3. Investigations**

- 3.1. Once the file is passed to the Investigations and Hearings Team for consideration, if advice is needed at any stage of the investigation, the Case Officer will give consideration to asking a member of the PCC with experience of harassment/discrimination issues for advice
- 3.2. Where a PCC Case Examiner has previous experience of the case, it is recommended that the Case Officer approach the same Case Examiner where possible. The final decision to seek advice should be approved by the Investigations and Hearings Team Manager or, in her absence, a Casework Supervisor. If such advice is requested, the Case Examiner will be provided with the following:
  - a. A brief summary of the details of the investigation;
  - b. A copy of the relevant documents;
  - c. A list of specific questions relating to the discrimination complaint.
- 3.3. The Case Examiner will respond in writing with their advice within three weeks of the papers being sent to them which, if appropriate, will include what further information should be obtained and why. The Case Examiner will draft any advice on the basis that it may be subject to disclosure to either the complainant or those complained of.
- 3.4. Where the complaint needs to be referred to the PCC for a decision on what action should be taken, the file will be sent to a Case Examiner to prepare a full report. This may be the same Case Examiner that has provided advice on the complaint or another member of the PCC who will consider any recommendation with the advice. Where the file is sent to another member of the PCC, the Case Officer should ensure the Case Examiner is aware of, and has a copy of, the advice. If the Case Examiner considers that further comments relating to the issues of discrimination and/or victimisation or harassment should be sought, s/he will return the file.

### **General**

- 3.5. The PCD will inform the Equality and Diversity Team of the outcome of all complaints covered by this document and, where a complaint is dismissed, the reasons for the decision.
- 3.6. To preserve the necessary confidentiality, files (or any other information provided) will not be passed to any other person, including other members of the BSB or Secretariat, without the permission of the Assessment Team Manager, Investigations and Hearings Team Manager, or Director of the PCD, or the Chair of the PCC.

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