9. Roles and responsibilities of Committee members

Overview

9.1. New Committee members are appointed by the BSB’s Appointments Board on an annual basis and normally begin their three-year term in January. The roles of members are set out below and further information specific to the role of lay members can be found in Section 10:

- Attend Committee meetings for their allocated teams and participate in Committee discussions;
- Where the Committee Member has served two years or more on the Committee, act in the capacity as an “Experienced Member” when called on so (see paragraphs 9.10 -9.15 below for further details on the requirements and responsibilities of this role);
- Act as a Case Examiner Member in relation to individual complaints (see paragraphs 9.16 - 9.19 for details on preparing and submitting Case Examiner reports);
- Act in the public interest by ensuring that complaints are given due and fair consideration;
- Ensure that dismissal letters cover all relevant aspects of the complaint and that the language is clear and understandable for lay complainants;
- Ensure that where an external complaint is referred to a further hearing, all relevant charges are considered and drafted.
- Participate in additional Committee work (such as working groups) as required.

Conflicts of Interest

9.2. If a Committee member has a conflict of interest in relation to any matter, the Committee member must:

- Inform the Professional Conduct Department as soon as possible;
- Take no part in consideration of the matter at any stage; and
- If attending any meeting at which the matter comes up for consideration, follow the procedure set out in paragraphs 8.6 – 8.8 above.
9.3. A Committee member has a conflict of interest:

- If the Committee member actually has a bias or other interest which would conflict with his/her ability to consider the matter fairly; or
- If an independent and fair minded observer, in possession of all the relevant facts, would conclude that there is a real possibility that the Committee member may have such a bias or other conflicting interest.

9.4. Examples of conflict of interest include (but are not limited to):

- Having personal knowledge of or personal involvement in the matter in question;
- Subject to paragraph 9.5 below, knowing the complainant/informant or the barrister complained about or a witness whose evidence is or may be in dispute (or a close family member or close associate of any of the same);
- Having a significant professional, business or financial connection with the matter or any of the persons above.

9.5. Examples of facts which, by themselves, will not give rise to a conflict of interest include (but are not limited to):

- Merely being acquainted with the barrister complained about, e.g. as a result of appearing against the barrister on one or two occasions in the past, without having occasion to form any strong opinion on any issue which is now or may be in dispute (e.g. as to the barrister’s credibility or integrity or self-control, depending what is now or may be in issue);
- Having an insignificant professional, business or financial connection, e.g. owning a small shareholding in a company which owns the premises where the alleged misconduct took place, when the ownership of those premises is of no relevance.

9.6. If a Committee member is in doubt as to whether he/she has a conflict of interest or not:

- The Committee member should consult an Officeholder; and
- If that discussion does not resolve any such doubt one way or the other, the Committee member should err on the side of caution and act as if he/she does have a conflict of interest."
Referral complaints to Committee members

9.7. Complaints and/or complaint files can be sent to Committee members by the staff Teams for a number of reasons:
   a. For advice during the course of a complaint particularly on points of law and legal procedure;
   b. For Experienced Members to take a relevant decision on a complaint (see Section 4 – paragraphs 4.46 -4.49);
   c. For preparation of report as a Case Examiner member in relation to both pre-investigation and post-investigation complaints; and
   d. For consideration of a Determination by Consent (DBC) report as a Case Examiner member.

9.8. The nature of the referral will dictate which Team or member of staff will forward the case to the Committee member. Requests for advice, Experienced Member decisions and DBC reports are normally forwarded direct by the Officer responsible for the case. Requests to act as a Case Examiner in relation to presenting complaints to the Committee will be handled centrally by the Operational Support Team as it is this Team that is responsible for supporting Committee meetings and compiling agendas.

Requests for advice

9.9. There is no standard format for providing responses to requests for advice. Barrister members will probably feel most comfortable providing it in a format similar to advice provided to clients but this is not necessary. What is important is that the advice is provided in a format that addresses the issues under consideration and provides a clear direction for staff to take, preferably in the form of numbered or bulleted recommendations.

Acting as an “Experienced Member”

9.10. Experienced Members (EMs) can be called upon to take decisions at both the pre- and post-investigation stage: the circumstances in which this might happen are set
out at paragraphs 4.46-49. Decisions will always be referred to two Experienced Members: one lay and one barrister who are expected to come to a joint decision on the case between them, rather than via the staff Teams.

9.11. As most EM decisions are taken at a stage in complaints when there is unlikely to be voluminous documentation, referrals will normally be by e-mail but, if necessary, hard copies of the full papers will be sent to each EM. The e-mail will include a note of the case, setting out the background to the complaint, the issues involved and the reasons why the case has been referred for a decision. Staff will ensure that the each EM is provided with the contact details of the other EM in order to allow the EMs to communicate direct.

9.12. If the EMs cannot decide on what action should be taken, they have the option (but there is no requirement) of referring the complaint to the full Committee for a final decision. Examples of circumstances in which the EMs might want to refer a complaint to the full Committee are: where the matter is particularly complex; the complaint has or might attract media attention; or where it appears to the EMs that the complaint has wider implications for the public, the Bar or the BSB. However, the decision to refer to the full Committee is at the discretion of the EMs.

Practicalities and timescales for Experienced Member decisions

9.13. The expectation is that the two assigned EMs will communicate directly with each other in order to reach a joint decision and not via the Professional Conduct Department staff. The normal deadline for responding to requests for a decision is one week from the date of receipt of the e-mail or the file for interim decisions and two weeks for final dismissal decisions. The reason for the short deadlines is that EM decisions are normally interim ones which do not require any extensive written work but merely a consideration of the issues and a short response detailing the decision. In relation to interim decisions, the response required will only be a “yes” or “no” to the recommendations put forward. Where EMs are asked to approve a dismissal letter, more work may be involved if the EMs consider the letter needs editing hence the longer deadline.

9.14. On receipt of a referral, the EMs should liaise immediately with each other to establish if the relevant deadline can be met. If not, the EMs should inform the
relevant PCD staff member immediately giving a date when a response can be provided.

9.15. Where EMs consider that a complaint requires referral to the full Committee for a decision, they should agree between themselves which one of them will prepare the “Case Examiner” report for the Committee and inform the relevant staff member accordingly. Thereafter the guidance below on “acting as Case Examiner” should be followed. If it is not possible for either EM to prepare the report, the complaint should be passed back to the relevant staff member for an alternative Case Examiner member to be appointed.

**Acting as a “Case Examiner member”**

9.16. Where a case is referred to the member of the Committee to act as Case Examiner, the full file will be sent along with an indication of the nature of the decision the Committee is being asked to make (i.e. a pre or post-investigation decision). It is the Case Examiner’s responsibility to review the complaint file, prepare a report for the Committee making a recommendation for disposal and to attend the Committee meeting to speak to the report and answer any questions.

**Internal complaints**

9.17. Case Officers in the Investigations and Hearings Team will normally prepare the Committee reports for internal complaints. However, any internal complaint may be referred to a Case Examiner member particularly where the circumstances are unusual, there are complex issues or if the Committee member has previously been involved in the case.

**Determination by consent**

9.18. DBC cases will normally only be referred to a Case Examiner member after a Case Officer in the Investigations and Hearings Team has prepared the final draft report which will include the reason for the recommended findings and, if appropriate, sentence. The draft report will be sent to the Case Examiner member and he/she will be asked to review the report and confirm, or otherwise, the recommended course of action. If the Case Examiner disagrees with any of the recommendations or considers amendments to the report should be made, he/she should contact the
Case Officer to discuss. Case Examiners should pay particular attention to the recommended sanctions and ensure they are justified in light of the Sentencing Guidance and also that any aggravating and mitigating factors are adequately covered and reflected in the level of sentence.

9.19. When the report is agreed, it will be included in the papers for the next Committee meeting and the Case Examiner is expected to present the report to the Committee in the same way as other reports are presented. This means the Case Examiner should be familiar with the draft report and be prepared to answer questions about the recommended sanction.

**Practicalities and timescales for advice and/or Case Examiner reports**

9.20. Before a case is referred to a Case Examiner, a member of staff will email the Case Examiner giving brief details of the case, the type of advice or report required, and the deadline for receipt. Committee members are expected to respond within 72 hours to the initial email to confirm whether they are able to accept the case.

9.21. This prior notice is not given in DBC cases. In such cases, Case Examiners will be contacted direct by a Case Officer in the Investigations and Hearings Team. This is because the work involved in dealing with DBC reports is limited and not particularly time-consuming, so members should be able to deal with them fairly easily alongside other work. If a member is not available to deal with a DBC report, he/she should let the Case Officer know as soon as possible.

9.22. Once an affirmative answer is received that the proposed Case Examiner can take on the case, the file will be sent to the Committee member who is expected to make a preliminary assessment within a week to establish whether he/she:

- has a conflict of interest or there is any other reason why the file should not be accepted;
- has sufficient time available to complete the report within the normal three week deadline;
- has the necessary expertise to deal with the matter;
- requires any further information before a proper assessment of the complaint can be made.
9.23. If the Case Examiner has any of the above difficulties, he/she should immediately contact the member of the Operational Support Team staff who referred the case. The assumption will be made that if nothing is heard within the allowed week, the Case Examiner is able to take on the case and will complete the work within the three week deadline.

9.24. It is very important that reports are prepared in a timely manner: delays can cause considerable difficulties for staff in meeting the expectations of barristers and complainants which can lead to time consuming work in trying to address concerns. Delays also impact on the collective performance of the Committee and the Teams and thereby the reputation of the complaints system and the BSB.

**Guidance on preparing Case Examiner reports**

9.25. A template for Case Examiner reports (other than DBC reports) has been created and Case Examiners members are expected to use it. The pro forma for Case Examiner reports can be found at the end of this section. Preparation of the report involves producing two separate sections: a Fact Sheet and the Analysis.

9.26. The Fact Sheet is reserved solely for a rehearsal of the facts and evidence in relation to the complaint as set out in the papers. The extent of the information available will depend on the stage at which the complaint has been referred: there may be relatively little information if the complaint is at the pre-investigation stage but post-investigation files may include voluminous papers. It is important that the Fact Sheet is accurate but as succinct as possible.

9.27. The Fact Sheet should not include any value judgements or analysis of the complaint. In relation to post-investigation cases, the facts should be restricted to the aspects of the complaint which are covered in the Summary (see Section 4 – paragraph 4.32). If there are any aspects which have not been included in the Summary and the barrister has not been asked to comment on, reference to these should be reserved for the Analysis section. In these circumstances, a referral could not be made in relation to the aspects not previously presented to the barrister and the recommendation, if action needs to be taken, should be to refer that aspect to the barrister for comment before proceeding further or as a separate matter.
9.28. The Fact Sheet is intended, if asked for, to be disclosed to the complainant and/or barrister. It is very important that Case Examiners bear this in mind not only in relation to the factual contents but also in relation to the language used, which should not be too legalistic.

9.29. The Analysis section of the report should be used to set out the Case Examiner’s views of the facts and how they support the recommendations taking into account PG12 ‘Decision Making Criteria’.

9.30. The Analysis section should identify the relevant issues of the complaint and, if necessary, cross-reference these with the provisions of the Code to show why the disposal recommendations are being made. In relation to complaints that are being submitted to the Committee on the basis that there is insufficient evidence of a breach of the Code, particularly at the pre-investigation stage, it may not be necessary to refer to specific breaches of the Code and in many cases it is likely to be sufficient to state that no breach of the Code is disclosed by the information available. In post-investigation cases, the analysis should concentrate on whether or not the evidence available demonstrates that there is a realistic prospect of a finding of professional misconduct. When making this assessment Case Examiners should take into account that professional misconduct must be proved to the criminal standard.

9.31. The Analysis section may also be disclosed on request of the complainant and/or barrister. Case examiners should bear this in mind when considering the language used, which should not be too legalistic.

9.32. Case Examiners should avoid the use of humour, phrases that may give offence, or overtly legal terms that may not be understood by the lay members. As far as possible, reports should stick to the facts and avoid comments on the character of any of the parties involved. Where legal terms are used, it is helpful to include a brief explanation for the benefit of the lay members.

9.33. For reasons of confidentiality, Case Examiner reports should only use the initials of the barrister complained of, and the use of any identifying information (such as the name of the chambers) should be avoided. The names of the barristers to which the complaints relate will be provided at the meeting (see section 8 on procedure at
Committee meetings). The names of victims of rape or sexual assault should be avoided in Case Examiner reports.

**Obtaining further information**

9.34. If at any time it becomes clear to the Case Examiner member reviewing a file that further information is required before a proper assessment can be made, the Case Examiner should contact the Officer responsible for the case who can make the necessary enquiries. If further enquiries are necessary, they should be undertaken before preparation of the full report.

9.35. *It is not appropriate to prepare a Case Examiner report for the Committee stating that further information should be obtained.* This will cause additional delay in the consideration of the complaint. An email or telephone call to the Officer identifying the necessary enquiries is sufficient. It is likely that you will be asked to return the file so the enquiries can be made. If any new information is obtained, the complainant may need to comment on it before it is included in the report and considered by the Committee.

9.36. Where a complaint has been investigated and the investigation reveals potential new issues of professional misconduct that might warrant referral to disciplinary action, the Case Examiner should refer to these in the Analysis section of the report and make recommendation as to whether further action is justified and, if so, whether it is necessary to seek the barrister’s comments. Issues which have not been put to the barrister for formal comment cannot form the basis of subsequent disciplinary charges and any attempt to do so is likely to lead to a successful challenge.

**Guidance on dismissal letters**

9.37. In any case where a complaint is dismissed, the BSB must write to the complainant informing him or her of the reasons for dismissal. All Case Examiner reports that include a recommendation to dismiss the complaint must be accompanied by a draft dismissal letter for the Committee’s consideration. It is *not* acceptable simply to promise to draft an appropriate dismissal letter in the future if the Committee accepts the recommendation to dismiss.
9.38. The pro forma for Case Examiner reports at the end of this section includes the template for a draft dismissal letter.

9.39. Members, and in particular barrister members, should always be aware of the risk of a poor dismissal letter following on from a good quality report. This may be because:

(a) The Case Examiner member, perhaps understandably but certainly wrongly, feels that his or her work is done once the report is complete and that the draft dismissal letter is a bit of an afterthought; and

(b) Barristers are generally unused to writing letters communicating unwelcome outcomes and the reasons for them to lay people.

9.40. Case Examiners are advised to take a break between completing a report, recommending dismissal, and drafting the dismissal letter. The art of summarising, analysing and recommending to the Committee is very different from the art of communicating a dismissal and the reasons for it to the complainant.

9.41. Drafting an appropriate dismissal letter takes time, skill and care. The letter communicates the decision to dismiss which is bound to come as a disappointment to the complainant. The letter is also likely to be the only explanation which the complainant receives of the reasons. In line with the Regulatory Objectives as well as the aims and objectives of the complaints system (see Section 4), it is important that the Committee acts in the public interest by providing clear, accessible and well reasoned dismissal letters.

9.42. A dismissal letter therefore needs to be both tactful and clear. Even if the complaint appears to lack any merit, the letter must be scrupulously polite. It must not be humorous, offensive, inflammatory, patronising or dismissive and should not include legal jargon.

9.43. When deciding to dismiss a complaint, it is not the function of the Committee to determine disputed issues of fact. The most common error in draft dismissal letters is stating the reason for the dismissal as being that the Committee reached a conclusion by determining a factual dispute.
9.44. The most common reasons for dismissing a complaint will be that the Committee has found that there is no potential breach of the Code or there is no realistic prospect of proving the alleged misconduct. This is best expressed as “the Committee considers that the complaint you have made does not amount to a breach of the Code” (pre-investigation complaints), or “the Committee found that there is no realistic prospect of proving professional misconduct because...” (with a possible mention of the standard of proof being beyond reasonable doubt) followed by a summary of the principal reasons for coming to this view.

9.45. It is open to the Committee to dismiss a complaint, notwithstanding that there is a realistic prospect of proving professional misconduct, where the Regulatory Objectives would not be “best served” by pursing disciplinary action. This is most likely to happen where disciplinary action would be disproportionate particularly where a related service complaint has previously been satisfactorily resolved by the Legal Ombudsman (see Section 6). In these circumstances, the drafting of the dismissal letter requires careful consideration with clear reasons for the decision.

9.46. **Complaints with several aspects:** Many complaints include several distinct aspects that require different disposals. The Committee may decide to dismiss one or some of those aspects but to proceed on one or more of the others. It is also common for the Committee to decide on some lesser disposal of an aspect than the complainant was seeking without dismissing the complaint outright, for example by directing no further action.

9.47. If a Case Examiner member is recommending dismissal of one or some but not all of the aspects of the complaint and/or a lesser disposal of any aspect than is sought by the complainant, the Case Examiner must ensure the dismissal letter includes clear information about which aspects are being dismissed and, if applicable, why some aspects are being disposed of in a lesser way than the complainant wanted. The letter must also make it clear which aspects are being referred to further action and the means by which that further action will be taken. However, when informing a complainant that aspects of a complaint are being referred to disciplinary proceedings, the letter should not normally enter into any detailed explanation why, since the merits or otherwise of those aspects will be for the Disciplinary Tribunal or Determination by Consent procedures.
9.48. **Consideration at meetings of draft dismissal letters:** if the Committee accepts a Case Examiner’s recommendation to dismiss a complaint or aspects of it (or a lesser disposal than sought by the complainant), the Committee will focus on the contents of the draft letter and is likely to pay attention to the detailed wording. Other Committee members, and particularly lay members, often have much to contribute to the wording of the letter. Accordingly, a Case Examiner member who is recommending dismissal of all or any aspects of a complaint should feel free to contact another member of the Committee, and in particular a lay member, in advance of the Committee meeting for advice on the draft letter. If, at the meeting, the Committee finds that the draft letter requires amendment, the Case Examiner member may be paired with another member of the Committee, often a lay member, to finalise the wording after the meeting in accordance with the Committee’s guidance.

**Partial dismissal**

9.49. It is common for part of a complaint to be dismissed and part referred to a hearing. If the Case Examiner’s recommendation is that only part of the complaint is dismissed, the Case Examiner should draft a dismissal letter focussed on the aspect(s) of the complaint that are recommended for dismissal. In some cases, the entire substance of the original complaint from an external party is dismissed but a new aspect revealed during the course of an investigation is referred to a disciplinary hearing as an “internal complaint”. This occurs most often where the barrister has not responded to the complaint and, whilst there may be insufficient evidence to refer the original complaint to disciplinary action, there is sufficient evidence to take disciplinary action in relation to the non-response. It is very important in such cases that the complainant is given full reasons for the dismissal of the substantive complaint but informed that the BSB is bringing regulatory action of its own motion against the barrister for other reasons.

**Draft charges**

9.50. Where the recommendation is that the complaint should be referred to disciplinary action (a Disciplinary Tribunal or DBC), the Case Examiner **must** prepare draft charges to lay against the barrister. This is very important for a number of reasons. It focuses the Committee’s attention on confirming the provisions of the Code the Committee is satisfied have been breached and creates a sound basis for the referral if it is later challenged at a Tribunal. It also gives the BSB’s appointed prosecutor, as
well as the allocated Case Officer, a clear indication of the intentions of the Committee in the event that the prosecutor has concerns about the content or nature of the disciplinary case.

9.51. The draft charges should stipulate the Code provision which has been breached and also set out the particulars of the breach. Examples of draft charges for the most common breaches of the Code can be found at Annex 1 but Case Examiners should seek the advice of other Committee members, the Investigations and Hearings Manager or the Case Officer, if they are unsure about how to draft a charge.

9.52. It is particularly important where the alleged professional misconduct is being justified under paragraph 901.5 of the Code that the particulars of offence include details of the reasons why the breach of the Code amounts to professional misconduct. A number of defendants in the past have argued at hearings that the offence they committed should have been dealt with by way of an administrative penalty under paragraph 901.1.

**Warning and fines - Paragraph 901.1**

9.53. In 2005 amendments were made to the Code to create a range of breaches of the Code that can be dealt with by way of an administrative warning or fine and do not amount to professional misconduct unless the breach is serious (see paragraphs 901.1 and 901.5 of the Code and Section 4 of this Pack – paragraphs 4.19 - 4.21).

9.54. A wide range of breaches of the Code are included in paragraph 901.1, including paragraphs:

- **202(a) - (d):** Payment of practising certificate fees, completion of CPD, and keeping the Records section informed of contact details;

- **203.1:** Exercising rights of audience as long as practising requirements (see paragraph 202 of the Code) are complied with;

- **204(b) & 402:** Complying with insurance requirements;

- **403.2(b) - (d):** Ability to access library facilities, paying regard to Bar Council guidance, and having in place procedures for dealing with complaints;
404.1 - 404.3: Obligations on Heads of Chambers;

701: Requirements to act courteously, competently, not waste court time, and keep records of fees;

709.1: Making inappropriate media comments;

804: Requirements of pupil supervisors;

905(a) (i) & 905(d) - (e): Requirements to respond promptly to the Bar Standards Board.

9.55. Any breaches under the above provisions should normally be dealt with by way of imposition of a written warning or fine; however, paragraph 901.5 of the Code allows the above breaches to be treated as professional misconduct as long as it can be shown that they are “serious”.

9.56. From 10 October 2005 to 17 March 2008, paragraph 901.5 stated that a failure to comply with the provisions of the paragraphs referred to paragraph 901.1 of the Code could constitute professional misconduct if the breach brought the Bar into disrepute by virtue of its:
   • nature;
   • degree;
   • repetition;
   • combination with other failures to comply with the Code;
   • or for any other reason.

9.57. On 18 March 2008, paragraph 901.5 was amended and there is no longer a need to establish “disrepute” for the matter to be treated as misconduct. Instead it is necessary to show that the breach is a “serious” failure to comply with the relevant provisions of the Code due to:

   • the nature of the failure;
   • the extent of the failure;
Roles and responsibilities of Committee members

9.58. It is important that charges referred by the Committee under any of the paragraphs listed in paragraph 901.1 are particularised to show why they fall within 901.5 and why the Committee considers that the behaviour amounts to misconduct and should be the subject of charges rather than being dealt with by imposing a written warning or administrative fine. It is also important to establish when the breach occurred to determine whether the provisions of paragraph 901.5 of the Code prior to March 2008 apply or whether those introduced on 18 March 2008 are applicable.

Reconsideration of referral decisions

9.59. It is possible that, although the Committee has referred a complaint to disciplinary action, the complaint is referred back to the Committee for reconsideration as a result of advice from the prosecutor or a Case Officer in the Investigations and Hearings Team. This may be because further evidence has come to light after the Committee referral, or the prosecutor or Case Officer has concerns about being able to prove the charges to the requisite standard of proof.

9.60. If a referral back to the Committee is being considered, the Case Officer will contact the Case Examiner to discuss the concerns and will forward to him or her a copy of the prosecutor’s advice or the Case Officer’s reasons.

9.61. The Case Examiner will then be given the opportunity to reconsider the file in the light of the new developments and will be expected to prepare a further report and/or attend the meeting to give his or her views to the Committee orally. Disciplinary cases referred back to the Committee may require a very fast turn-around time because of the time limits prescribed in the Disciplinary Tribunal Regulations for serving charges. The Case Officer will ensure that the Case Examiner member is informed of any need for urgency in reconsidering the referral decision.

9.62. Rules 41 and 42 of the Complaints Rules allow for the Committee to reconsider any referral (so long as it has not already been disposed of by a Disciplinary Tribunal) and decide to take different action as it sees fit as though the previous decision had not been made. However, in the case of Disciplinary Tribunals, if the charges have
already been served on the defendant barrister, the Committee is limited to instructing prosecuting barrister to offer no evidence or to apply for additions or amendments to the charges.

9.63. If the Committee decides to offer no evidence, this can normally be completed on paper without the need for a full Tribunal panel to be convened. However, the defendant barrister is entitled to make an application for costs at this stage and this may result in it being necessary for an oral hearing to take place to consider a costs application. In order to prevent possible liability for the defendant’s costs, the Committee should provide a written explanation for the decision to offer no evidence.
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The Professional Conduct Committee of the Bar Standards Board met on [date] and considered your complaint in the light of all the material before it.

It may help if I begin by outlining the role of the Committee. In summary, when considering a complaint against a barrister, the Committee has to decide whether there is a real prospect of establishing that the barrister committed professional misconduct. If the Committee decides that there is a real prospect of establishing this and considers that disciplinary proceedings are in the public interest, it will authorise disciplinary proceedings, which will actually determine whether the barrister is guilty and, if so, the appropriate sentence. If the Committee decides that there is not a real prospect of establishing guilt or that disciplinary proceedings would not be in the public interest, it will dismiss or direct no further action on the complaint.

The Committee’s powers are set out in the Complaints Rules 2011 (which are available on the Bar Standards Board’s website and a paper copy of which can be supplied on request).

After discussion, the Committee decided that your complaint did not justify disciplinary proceedings for professional misconduct. Your complaint against [Counsel’s name] has therefore been dismissed. I should mention that the Committee includes a number of independent lay members and that a complaint cannot be dismissed unless at least a majority of the lay members agree with the decision.

The reasons for the Committee’s decision are, in summary, as follows.
You can request a copy of the “fact sheet” that was before the Professional Conduct Committee when it made its decision on your complaint. To obtain a copy, please contact the Complaints Officer whose name appears at the top right hand corner of this letter.

**Case Examiner member contact details**

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Standard of Proof Review - Supplementary Analysis Question *(Anonymised)*

Would your recommendation in relation to this complaint, or any part of it, have been different if the civil standard of proof (balance of probabilities) applied in relation to findings of professional misconduct?

Yes  
No  

Comments:
Dear «Salutation»

Complaint by you against «CounselNames»

The Professional Conduct Committee of the Bar Standards Board met on «CommitteeDate» and considered your complaint in the light of all the material before it.

It may help if I begin by outlining the role of the Committee. In summary, when considering a complaint against a barrister, the Committee has to decide whether there is a real prospect of establishing that the barrister committed professional misconduct. If the Committee decides that there is a real prospect of establishing this and considers that disciplinary proceedings are in the public interest, it will authorise disciplinary proceedings, which will actually determine whether the barrister is guilty and, if so, the appropriate sentence. If the Committee decides that there is not a real prospect of establishing guilt or that disciplinary proceedings would not be in the public interest, it will dismiss or direct no further action on the complaint.

The Committee's powers are set out in the Complaints Rules 2011 (which are available on the Bar Standards Board's website and a paper copy of which can be supplied on request).

After discussion, the Committee decided that your complaint did not justify disciplinary proceedings for professional misconduct. Your complaint against «CounselTitleNames» has therefore been dismissed. I should mention that the Committee includes a number of independent lay members and that a complaint cannot be dismissed unless at least a majority of the lay members agree with the decision.

The reasons for the Committee's decision are, in summary, as follows.

[Free text to be filled in].

You can request a copy of the “fact sheet” that was before the Professional Conduct Committee when it made its decision on your complaint. To obtain a copy, please contact the Case Officer whose name appears at the top right hand corner of this letter.

Under our rules there is no formal mechanism for you to appeal our decision. In certain circumstances, set out in paragraph 41 of the Complaints Rules (Annex J) to the Bar's Code of Conduct, the BSB can re-open or reconsider your complaint. A copy of the rules is available on the web site.

Yours sincerely

«ExecName»
«ExecAppointment»
Professional Conduct Committee
E-mail: «ExecEmailAddress»

cc «CounselTitleNames»

CTTDIS02LET