

# BAR STANDARDS BOARD

REGULATING BARRISTERS

## **Bar Standards Board's Prosecution Panel –**

### **New member selection process**

#### **1. Introduction**

- 1.1. The Professional Conduct Committee ('PCC' or 'Committee') of the Bar Standards Board (BSB) maintains a panel of barrister prosecutors who can be called on to represent the BSB in relation to disciplinary proceedings for professional misconduct brought against those regulated by the BSB who are subject to the terms of the BSB Handbook (as well as the Code of Conduct 8<sup>th</sup> Edition). Such proceedings could involve individual members of the Bar, entities authorised by the BSB and non-barristers working for a chambers and/or an entity.
- 1.2. The panel is known as the "Prosecution Panel" and is effectively a list of approved barristers who are prepared to represent the BSB on a pro bono basis. Membership of the panel is not subject to any contractual arrangements and does not represent a formal "position" or "office" within the BSB. It is also not time limited. Panel members are instructed to act for the BSB on a case by case basis.
- 1.3. This document sets out the arrangements for selecting new members of the panel, including the criteria that must be satisfied before a barrister can be added to the panel list.

#### **2. Extent of services required from prosecution panel members**

- 2.1. The role of prosecution panel members is to represent the BSB throughout the course of any disciplinary proceedings in which they are instructed i.e. from the point of a PCC referral of a case to disciplinary action through to its conclusion, including any appeal. Panel members can also be asked to advise the PCC generally or in relation to specific cases prior to a referral being made. In summary, the work typically covers the following:
  - Providing advice;
  - Providing advice on disclosure at the beginning of the disciplinary tribunal process and disclosure of unused material;
  - Preparing summaries/opening notes;
  - Advising on and settling the charges and directions;

- Dealing with non-standard correspondence received during and at the disciplinary tribunal;
- Attending directions hearings and any other preliminary hearings;
- Attending the disciplinary tribunal;
- Replying to applications to strike out; and,
- Advising and attending on any appeals received and drafting answers to appeals.

### **3. Requirement for new members**

- 3.1. The recruitment requirements for new panel members is dependent on a number of factors such as the volume of recent resignations, the volume of cases requiring representation and the level of access to specialist knowledge the BSB may require to support its disciplinary functions. Recruitment exercises are therefore conducted as and when needed.

### **4. Advertising for new panel members**

- 4.1. When a need for new panel members arises, the BSB will normally place an advert in the Bar News section of Counsel Magazine. In addition, a letter from the Chairman of the PCC will normally be sent to all Circuit Leaders and Chairs of Specialist Bar Associations, including the specialist BME and Lesbian and Gay Associations. The letter will ask the Circuit Leaders and Chairs to make their members aware of the recruitment exercise and will include an information sheet setting out the application process, the eligibility criteria, the BSB expectations and an overview of the time commitment.

### **5. Criteria for appointment**

- 5.1. Barristers wishing to join the prosecution panel are required to meet the following criteria:
- be of at least seven years' call;
  - be of good standing i.e. not have any previous disciplinary findings;
  - have "prosecution" experience; and,
  - not be a member of any of the Committees of the Bar Council or the BSB.
- 5.2. Barristers who have been subject to previous disciplinary findings will not normally be approved to join the panel, but this is subject to the discretion of the Chair of the PCC depending on the nature of the findings and the age of the findings. However, it is only in exceptional circumstances that a barrister with disciplinary findings would be approved to join the panel.

## **6. Appointment process**

- 6.1. A barrister interested in joining the prosecution panel is asked to provide a CV to the Investigations and Hearings Team Manager (I&H Manager). The I&H Manager will check that the criteria as above are satisfied and will arrange for a check to be made of the applicant's disciplinary record. Where the barrister has outstanding complaints registered against them, the application will be put on hold pending the outcome of the consideration of the complaint. The I&H Manager has the ability to reject any application at this stage if the barrister has serious disciplinary findings registered against them but also has the discretion to forward applications to the Chair for approval where the findings are for minor technical breaches and/or very old.
- 6.2. Once the checks have been carried out, the barrister's CV will be forwarded to the Chair of the PCC for consideration. If the Chair is satisfied that the barrister has the relevant experience, s/he will approve the barrister for addition to the panel list.
- 6.3. Following notification of the approval from the Chair of the PCC, the I&H Manager will send a letter to the barrister informing them of the approval, confirming the addition of their name to the panel list and reiterating that all services are provided pro bono on a case by case basis. The new panel member will be invited to a compulsory induction session and provided with a copy of the BSB's Prosecution Panel Information and Guidance Pack.

## **7. Induction**

- 7.1. New panel members will not normally take on cases until after they have attended the compulsory induction session. This session is conducted at the BSB's office by senior staff from the PCD and covers the BSB's regulatory framework, the approach to enforcement and the Enforcement Strategy as well as the detailed disciplinary processes, including charging.
- 7.2. New members will also be expected to attend a Disciplinary Tribunal as an observer. Such observation will normally be expected to take place within three months of joining the panel and preferably before a new member takes on a case.

## **8. Mentors**

- 8.1. New members will be assigned an experienced member of the panel as a "mentor" who will be available to provide guidance generally and on specific cases for as long the new member feels it necessary but for a minimum of six months.