

## Table Summary

BAR  
STANDARDS  
BOARD

REGULATING BARRISTERS

# Consultation: Modernising regulatory decision-making

An overview and summary of the proposed changes, as compared to current decision-making systems, are set out below. These pages are intended to be a starting point for consultees in considering the detail contained in the consultation document, available at [https://www.barstandardsboard.org.uk/media/1924546/modernising\\_regulatory\\_decision\\_making\\_-\\_consultation\\_paper.pdf](https://www.barstandardsboard.org.uk/media/1924546/modernising_regulatory_decision_making_-_consultation_paper.pdf).

The current system	The proposed system
Information received by the BSB is dealt with differently according to the way in which it is received, it may have to be considered by more than one part of the BSB which duplicates effort and causes confusion (eg information received on a complaint form must be handled in accordance with the Complaint Regulations but the same information could be dealt with as a supervisory matter if not received that way).	The centralised assessment function will perform all initial assessments of incoming information and will decide which parts of the BSB should receive the information for any necessary regulatory action. No separate handling of, or reference to, “complaints”.
Power to take initial decisions on “complaints” vested in the PCC but actually taken by the Executive in nearly all cases.	Power to take initial decisions vested in the Executive with appropriate quality assurance mechanisms in place.
69% of post investigation decisions taken by the Executive in 2016-17. More serious or complex cases referred to PCC.	Majority of post investigation decisions taken by the Executive with advice from APEX where needed. More serious or complex cases referred to IDB.
Authorisations Review Panels (ARP) decide authorisation appeals with advice from APEX when needed.	IDB decides authorisation appeals with advice from APEX when needed.
PCC has 32 current members (19 lay and 13 barristers, with more barristers currently being recruited) divided into two teams each having a lay majority.	IDB pool has 30 members (20 lay and 10 barristers). Membership will be kept under review and more recruited if needed. Panels of 3, 5 or 7 members, depending on complexity of case, drawn from the pool to take decisions and always maintaining a lay majority.

One team meets every three weeks.	An IDB panel meets once a week or at least once a fortnight.
<p>PCC's two teams of half the membership decide:</p> <ul style="list-style-type: none"> <li>• administrative sanctions</li> <li>• final decisions under the Determination by Consent procedure</li> <li>• whether to refer allegations of professional misconduct to disciplinary action following investigation</li> </ul>	<p>IDB panels decide:</p> <ul style="list-style-type: none"> <li>• administrative sanctions</li> <li>• final decisions under the Determination by Consent procedure</li> <li>• whether to refer allegations of professional misconduct to disciplinary action following investigation appeals on waiver and authorisation decisions<sup>1</sup></li> <li>• appeals against decisions to authorise entities - appeals against Inns of Court Conduct Committee decisions</li> </ul>
Chair of PCC can be lay or barrister.	Chair of IDB can be lay or barrister.
Chair of PCC can order immediate interim suspensions.	Chair of IDB can order immediate interim suspensions.
PCC members receive summary case reports (previously prepared by a PCC member but now successfully piloted prepared by Executive). Full file available on request.	IDB panel members receive summary case reports (prepared by Executive with expert advice from APEX where needed) and a copy of the full case file.
Large panels make taking part by phone or video conference difficult.	Smaller panels and enhanced technology make taking part by phone or video conference much easier.
Large panels mean detailed reasons for decisions are difficult to agree and record.	Smaller panels mean detailed reasons for decisions are easier to agree and record.
Identity of the subject of an allegation and of the information provider anonymised.	Identity of the subject of an allegation but not the information provider anonymised.
Final decisions on disciplinary sanctions in more serious cases made by independent 3 or 5 person panels (with lay, barrister and sometimes judicial members) in usually public hearings provided by the Bar Tribunals and Adjudication Service (BTAS).	Final decisions on disciplinary sanctions in more serious cases made by independent 3 or 5 person panels (with lay, barrister and sometimes judicial members) in usually public hearings provided by the Bar Tribunals and Adjudication Service (BTAS).

1. These appeals are currently considered by Authorisations Review Panels but were formally considered by the Qualifications Committee