

# BAR STANDARDS BOARD

REGULATING BARRISTERS

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## 1. Background

- 1.1 The Enforcement Decision Regulations (Part 5.A of the BSB Handbook) vest enforcement decision making powers in the Commissioner and, for certain post-investigation decisions, the Independent Decision Making Body (IDB). Further, the Interim Suspension and Disqualification (Part 5.D), and Fitness to Practise Regulations (Part 5.E) vest the power to refer relevant persons/BSB authorised individuals to these processes in the Commissioner, with the power to determine whether the relevant person should be subject to immediate suspension resting with the Chair of the IDB.
- 1.2 However, the enforcement system would not be able to operate effectively if all the relevant decisions under the Handbook were required to be taken by the Commissioner or IDB alone. Therefore, Regulations rE3, rE264 and rE300 of the BSB Handbook give the Commissioner or Chair of the IDB (in the case of rE264 only) the power to authorise any person, group or body to fulfil any function or exercise any power given to them in Part 5: A, C and D of the BSB Handbook, respectively.

- 1.3 Under the Bar Standards Board's (BSB) Scheme of Delegations, the Commissioner has delegated the power to take decisions under Part 5 of the Handbook to a range of staff within the Legal and Enforcement Department (LED). Staff should refer to this document for details of which staff can take decisions. No decisions should be taken by staff without reference to this document as a decision taken by a staff member who does not have delegated authority will be invalid and open to challenge.
- 1.4 There may, however, be a need from time to time for staff who do not have standing authority to take decisions under the Scheme of Delegation to take decisions on a temporary basis. There may also be a need for third parties to be given authority to take decisions, such as external consultants providing temporary casework assistance, or people appointed to take decisions where there is an internal conflict of interest. Where this is the case, the Commissioner is able to authorise such individuals to take decisions under the terms of rE3. Note: where a staff member is going to be taking decisions on a permanent basis, the Scheme of Delegations should be amended, rather than using an authorisation under rE3. However, a temporary authorisation may be needed pending agreement to the change to the Scheme of Delegations.
- 1.5 This document sets out the process for making authorisations under rE3. A person, group or body authorised to exercise powers or functions, must exercise those powers in accordance with the Regulations and any relevant policy or guidance, in particular:
- ROD02 - Initial Assessment of Reports (Assessment of incoming information)
  - LED04 - Investigation of Allegations (Guidance on conduct of Investigations)
  - LED03 - Categorisation of reports and allegations and staff authority to take decisions
  - BSB10 - LED and Supervision

## **2. Process for making authorisations**

- 2.1 All authorisations are required to be evidenced in writing on an Authorisation Form. An example of the standard Authorisation Form is annexed.
- 2.2 Where the need for a new authorisation is identified, a short paper should be prepared for the Commissioner outlining the reasons for the authorisation and attaching a draft Authorisation Form. The paper will usually be prepared by a relevant member of staff in the Legal and Enforcement Department.. If approval is given, the Commissioner will sign and date the authorisation. The original, as well

as a scanned copy, will be kept centrally with the Investigation and Hearing Administration Team.

- 2.3 **Revocation or amendments to existing authorisations:** a new Authorisation Form is required for any changes to existing authorisations. The same process as set out at paragraph 2.2 will apply, save for the fact that the Commissioner will be required to sign the appropriate section of the existing form to indicate it has been revoked/amended as well as sign the revised Authorisation Form.
- 2.4 **Validity of authorisations:** all authorisations remain valid from the date they are signed until they are either revoked or amended. It may be necessary for an authorisation to be given for a specific and time limited purpose. Where this is the case, the Authorisation Form should indicate the purpose and the period during which the authorisation should apply. On the expiry of the period or the purpose for which authorisation has been granted has concluded, the authorisation will cease to have validity. In general, it is better not to put time limits on authorisations as they can easily be revoked once they are no longer needed.

