



Bar Council response to the BSB Consultation on its Enforcement Powers and Procedures, Proposed revisions to the Enforcement Regulations, Part 5 of the BSB Handbook

1. This is the response of the General Council of the Bar of England and Wales (the Bar Council) to the BSB Consultation on its Enforcement Powers and Procedures, Proposed revisions to the Enforcement Regulations, Part 5 of the BSB Handbook.¹

2. The Bar Council is the voice of the barrister profession in England and Wales. Our nearly 18,000 members – self-employed and employed barristers – make up a united Bar that aims to be strong, inclusive, independent and influential. As well as championing the rule of law and access to justice, we lead, represent and support the Bar in the public interest through:

- Providing advice, guidance, services, training and events for our members to support career development and help maintain the highest standards of ethics and conduct
- Inspiring and supporting the next generation of barristers from all backgrounds
- Working to enhance diversity and inclusion at the Bar
- Encouraging a positive culture where wellbeing is prioritised and people can thrive in their careers
- Drawing on our members' expertise to influence policy and legislation that relates to the justice system and the rule of law
- Sharing barristers' vital contributions to society with the public, media and policymakers
- Developing career and business opportunities for barristers at home and abroad through promoting the Bar of England and Wales
- Engaging with national Bars and international Bar associations to facilitate the exchange of knowledge and the development of legal links and legal business overseas

¹ [BSB Consultation on its Enforcement Powers and Procedures, Proposed revisions to the Enforcement Regulations, Part 5 of the BSB Handbook](#)

- To ensure joined-up support, we work within the wider ecosystem of the Bar alongside the Inns, circuits and specialist Bar associations, as well as with the Institute of Barristers' Clerks and the Legal Practice Management Association.

3. As the General Council of the Bar, we are the approved regulator for all practising barristers in England and Wales. We delegate our statutory regulatory functions to the operationally independent Bar Standards Board (BSB) as required by the Legal Services Act 2007.

Introduction

4. The Bar Council welcomes proposals that are designed to promote efficiency, are targeted and proportionate. It is important that the need for efficiency is balanced with the need to ensure that barristers who are subject to disciplinary proceedings are given a fair process and that proceedings allow as much public scrutiny, and therefore transparency, as justified in the circumstances of each case, bearing in mind any GDPR considerations. This should, in turn, facilitate the confidence of barristers and the wider public in disciplinary proceedings. Where there are serious delays or issues with the manner of processing, this can have a significant impact on the lives of both barristers and complainants. We are pleased to see the BSB take steps to address some of the concerns and related recommendations made in the 2024 Field Fisher BSB Enforcement Report.² This independent report identified weaknesses in key enforcement processes.

5. This consultation is an opportunity for the BSB to implement some of the recommendations made by Baroness Harman in her recently published "Independent review of the bullying, harassment and sexual harassment at the Bar".³ A number of her recommendations relate to addressing deficiencies in the enforcement process. She suggests an overhaul of the system including introducing time limits for processing cases and more transparency as well as better support services and mandatory vulnerable witness training (recommendations 5, 6, 15 – 22).

6. In respect of all the procedures and stages in which the BSB is engaged in the process of a complaint, it is important that there is always consideration of the individual needs and requirements of the parties involved. It is not possible to set out the numerous ways in which issues arising from protected characteristic may arise, but it is necessary that in dealing with a complaint or investigation that protected characteristics are recognised, and given due consideration.

² [FieldFisher BSB enforcement review report 2024](#)

³ [Independent review of the bullying, harassment and sexual harassment at the Bar, Baroness Harriet Harman KC, September 2025](#)

7. We would invite the BSB to consider the adoption of a trauma-informed approach in developing communication and case management. By way of example, the adoption of a 'trustworthiness' principle would in practice mean a commitment to tell barristers and complainants how the matter will process, when the case will finalise, who will communicate with them and at what stages they will be updated.

Proposal 1: Communication of detailed, written 'allegations'

Question 1. Do you agree with our proposal to defer the point at which detailed, written allegations are formulated and sent to the barrister for comment to later in the investigation when relevant information has been gathered? If not, why not?

8. The Bar Council agrees that providing the barrister concerned with a broad summary of potential breaches of the BSB Handbook at the start of an investigation, rather than detailed written allegation as at present, should reduce delays in notifying barristers. This approach should prioritise professional curiosity in the investigation and avoid the more rigid approach which the BSB cites as a concern in the Enforcement Review.

9. The Bar Council would encourage flexibility from the BSB in this approach and to recognise that, in certain cases, more information should be provided to a barrister regarding the detail of the allegations in order for them to adequately respond and where early input from the barrister could make a material difference. It is important that this proposal does not lead to investigations drifting or losing priority once the broad summary has been shared with the barrister. It may be that specific time limits for each of these stages are appropriate to counter this risk.

10. In order to mitigate the potential impact on barristers of this loss of clarity, the Bar Council would encourage very clear expectation management within communications with the barrister, including signposting when detailed allegations should be provided. Further, the Bar Council would invite the BSB to consider the timeframe for permitting a response from the barrister after detailed allegations have been shared, as this is now likely to come at the conclusion of the investigation when the barrister will have considerably more information to process and will not previously have had a detailed breakdown of the BSB's case.

Question 2. Do you envisage any issue (legal or practical) with our proposal to introduce the new approach to the communication of detailed, written allegations, before any change to the regulations?

11. It is important that the BSB ensures any change is adequately communicated to the Bar to minimise the risk of confusion.

Proposal 2: Introducing a power to add to and/or amend the written allegation

Question 3. Do you agree with our proposal to introduce powers to add to, or amend, the written allegation(s), without an opportunity for further comment from the barrister, in the circumstances described in Proposal 2? If not, why not?

12. The Bar Council agrees with the proposal to add to or amend the written allegations without the requirement for further comment from the barrister subject to them being aligned with the facts and substance of the original allegations. The Bar Council would invite the BSB to ensure its communications with the barrister make this clear when the investigation and allegations are shared with the barrister, and that they are invited to comment on the underlying evidence, not just the detailed allegations. The barrister must have the right to object to any addition or amendment, if he or she considers that it cannot be dealt with fairly in the context of the existing proceedings or without undue delay. It is assumed that the decision-makers will be considering the case solely on the basis of material previously shared with the barrister. If there is new, relevant material, this should be shared with the barrister with the opportunity to respond before any changes are made to the allegations by decision-makers.

Question 4. Do you agree with the introduction of a power to add allegations of non-cooperation during an investigation, without requiring an opportunity for further comment from the barrister? If not, why not?

13. The Bar Council would question the necessity of a power to add allegations of non-cooperation during an investigation without requiring an opportunity for further comment from the barrister. The BSB has not set out the evidence base for needing such a power. The Bar Council would expect that alleged non-cooperation which is sufficiently serious to amount to a breach of the Code of Conduct or Handbook would be apparent at the point at which the detailed allegations are being drafted, at the conclusion of the investigation and before referral to the decision-makers. The Bar Council would like to understand why non-cooperation allegations cannot be added at the conclusion of the investigation. We are also interested in what types of conduct would amount to non-cooperation and if this proposal was introduced, suggest that clear criteria would need to be published.

Proposal 3: Giving staff the power to refer criminal convictions cases for disciplinary action

Question 5. Do you agree that staff should be given the power to refer all types of criminal convictions cases directly for disciplinary action? If not, why not?

14. The Bar Council agrees in principle that the range of criminal convictions that can be referred by BSB staff for disciplinary action should be expanded from the current list. However, the Bar Council is concerned about its staff, rather than Independent Decision-Making Panels, being tasked with assessing exceptional mitigating circumstances (such that disciplinary action is not required). The Bar Council considers that having its staff make these decisions is likely to lead to more barristers being referred for disciplinary action where exceptional mitigating circumstances are raised, as these are often complex and multi-factorial. Such action may result in more cases being referred for disciplinary action than at present, which would increase the caseload in the latter stages of the process and could, therefore, contribute to delays overall.

15. The Bar Council would encourage the BSB to reconsider this proposal and identify criteria to apply to conviction cases that would avoid unnecessary Independent Decision-Making Panel involvement; those cases where exceptional mitigating circumstances may be of less relevance (very serious cases, significant impact on public confidence, etc.). Such criteria could be based on the nature of the offence(s) (for example, sexual / violent offences, financial offences), sentence (for example, imprisonment, anything over 6 months) or ancillary order(s) (for example, SHPO/SOPO, restraining order). This may mean that Independent Decision-Making Panels are required in cases where disciplinary action is almost inevitable, but this is likely to be preferable to undeserving cases being referred onwards.

16. In line with the recommendations of Baroness Harman's report of the independent review of bullying, harassment and sexual harassment at the Bar, the Bar Council would also encourage the BSB to investigate such allegations concurrently with criminal investigations rather than wait for the outcome of criminal proceedings. This may reduce the number of cases that would fall to be considered as conviction cases at the point of referral for investigation.

Proposal 4: Amending the powers to reconsider post-investigation decisions

Question 6. Do you agree with the proposal to allow a single member of the Independent Decision-Making Body the power to determine whether a request for reconsideration meets the criteria? If not, why not?

17. The Bar Council agrees that it would be appropriate for a single member of the Independent Decision-Making Body to determine whether the request for reconsideration meets the criteria, such that the decision should be reconsidered. Given the risk of unconscious bias from having one decision-maker identified by the BSB in the consultation, the Bar Council would suggest that guidance on applying the grounds sets the threshold for reconsideration fairly low, such that only unmeritorious requests are refused and those which are arguable go forward for reconsideration.

Proposal 5: Confidentiality of reports and investigations

Question 7. Do you agree with our proposal to amend the exceptions to the general duty of confidentiality imposed on the BSB to clarify the BSB's ability to make disclosures where necessary to further an investigation? If not, why not?

18. The Bar Council agrees that the BSB should be permitted to disclose ordinarily confidential information in order to further an investigation. The Bar Council would encourage the BSB to align this clarified/explicit exception to confidentiality with UK GDPR such that the only information shared is that which it is necessary to disclose in order to further an investigation. Confidential information should only be shared on terms which impose an obligation of confidence on the recipient.

19. In line with the recommendations of the Harman report, the Bar Council would encourage the BSB to make clear to all parties how and with whom ordinarily confidential information can be shared and for this to be explicitly set out in a confidentiality agreement.

Proposal 6: Introducing an overriding objective

Question 8- Do you agree with our proposal to introduce an overriding objective into the Disciplinary Tribunals Regulations? If not, why not?

20. The Bar Council agrees with the proposal to introduce an overriding objective into the Disciplinary Tribunals Regulations to deal with cases 'justly and proportionately.' The Bar Council considers this will promote efficiency and fairness.

Question 9- Do you have any observations on our proposed formulation for an overriding objective?

21. In terms of the proposed formulation for an overriding objective, the Bar Council notes that incorporated into the Criminal Procedure Rules and Civil Procedure Rules are details of what an 'overriding objective' entails in those specific jurisdictions. The Civil procedural rule's overriding objectives⁴ are particularly helpful as a model and includes the following elements;

"ensuring that the parties are on an equal footing and can participate fully in proceedings, and that parties and witnesses can give their best evidence" [1.1(2)(a)]
and,

⁴ <https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part01#1.1>

“dealing with the case in ways which are proportionate to the importance of the case and to the complexity of the issues” [1.1(2)(c)(ii) and (iii)]

22. The BSB should consider the inclusion of these elements, or similar elements.

23. The Bar Council considers it may assist parties for the Disciplinary Tribunals Regulations to include reference to what ‘justly and proportionately’ means. Examples could be given such as - ‘treating all participants with politeness and respect;’ ‘respecting the interests of witnesses and keeping them informed of the progress of the case;’ and ‘dealing with cases efficiently and expeditiously.’

Proposal 7: Introducing a power for BTAS to regulate its own procedure

Question 10- Do you agree with our proposal to introduce a power for BTAS to regulate its own procedure in individual cases, strictly in accordance with the Disciplinary Tribunals Regulations and the proposed new overriding objective? If not, why not?

24. The Bar Council agrees with the proposal for a power to be introduced for the Bar Tribunals and Adjudications Service to regulate its own procedure, rather than limit determination by a Directions Judge or the Chair of the Disciplinary Tribunal.

25. This would allow the Bar Tribunals and Adjudication Service to adopt a more proactive and flexible approach in the way that it responds and manages to issues arising in cases. In the Bar Council’s view this would be appropriate, bearing in mind similar powers are available for other disciplinary tribunals at present such as the General Medical Council and CILEX.

26. The Bar Council notes that this will not involve the Bar Tribunals and Adjudication Service having a freestanding power to amend the Disciplinary Tribunal Regulations of its own volition. The Bar Council welcomes the use and publication of guidance, in order to ensure consistency in decision-making.

Proposal 8: Greater case management by BTAS.

Question 11- Do you agree with our proposal to give BTAS responsibility for case management, including the setting of case management directions and the power to list a case management hearing at any time? If not, why not?

27. The Bar Council agrees with the proposal to give BTAS responsibility for case management, including the setting of case management directions and the power to list a case management hearing at any time.

28. The Bar Council notes that the BSB will no longer be required to agree directions with the barrister and that instead the Bar Tribunals and Adjudication Service will issue a case management questionnaire for parties to complete. It is noted that the case management questionnaire would cover issues such as identifying matters of fact or law in issue, hearing length, number of anticipated witnesses, expert evidence and dates of availability, as well as any interlocutory applications parties intend to make.

29. The Bar Council agrees that it would be appropriate to introduce a power for the Disciplinary Tribunal to list case management hearings at any point, as required, to ensure the just and efficient conduct of a case. The Bar Council considers such powers would enhance the means by which an Overriding Objective can be adhered to.

Question 12- Do you agree that certain case management decisions can be delegated to the BTAS executive? If not, why not?

30. The Bar Council does agree that there are certain case management decisions that could be delegated to the BTAS executive, namely uncontested administrative decisions; or matters not involving legal argument.

31. However, where there are case management issues which are disputed or contested (or for example involve legal argument to be considered) such matters need to be determined by a 'Directions Judge.'

32. The Bar Council agrees that the introduction of greater case management powers for BTAS will reduce the risk of late adjournments and last-minute applications, enhancing efficiency in the overall process.

Proposal 9: Clarifying when sanctions come into effect and broadening powers to impose an immediate sanction, pending appeal.

Question 13- Do you agree with our proposal to clarify the timing of when a sanction imposed by the Disciplinary Tribunal comes into effect and that this is at the conclusion of any appeal period? If not, why not?

33. The Bar Council agrees with the above matters being clarified and codified. It allows all parties and the public to be aware of when a sanction comes into force, and we agree that it will thus avoid uncertainty and confusion.

Question 14- Do you agree with our proposal to widen the Disciplinary Tribunal's power to impose an immediate suspension or conditions, pending any appeal?

34. The Bar Council agrees with the proposal to widen the Disciplinary Tribunal's power to impose an immediate suspension or conditions, pending any appeal, where it considers it necessary to protect the public or is in the public interest.

35. It would assist for the circumstances in which this can be done to be set out within written guidance as well. For example, in the current proposals, it is said that the power would arise in any case where the Disciplinary Tribunal has found charges of professional misconduct proved and made its decision on sanction. To ensure a consistent approach is adopted, examples or definitions need to be given of when immediate suspension or conditions will ensure increased protection of the public or in the public interest. This is particularly so, if the Regulations are to make it mandatory for the panel to consider the question of whether to impose an immediate suspension or conditions before the hearing is concluded.

36. The Bar Council agrees with the proposal for a barrister to be able to seek variation of any order made on an immediate basis pending the appeal due to a change in circumstances, or to appeal the immediate suspension or condition/s imposed alongside their substantive appeal against the sanction in the High Court.

Proposal 10: Representations on sanction

Question 15 - Do you agree with our proposal to amend the Disciplinary Tribunals Regulations to clarify that the Disciplinary Tribunal may hear representations from the BSB on the issue of sanction? If not, why not?

37. It is proposed that Disciplinary Tribunal Regulations be amended, to specify that both parties have a right to make representations before the Disciplinary Tribunal on the question of sanction, when charges against a barrister have been found proved.

38. The Bar Council agrees with the above proposal and considers it to be a sensible approach, which will codify current practice.

39. The Bar Council considers that current practice should be maintained with the BSB assisting in setting out relevant applicable category, culpability and harm factors which apply in relation to BTAS guidance. The Bar Council agrees that it would be inappropriate for the BSB to be asked to make specific representations on any particular sanction it thinks the Tribunal should impose, for ultimately this is a matter for the Tribunal to consider.

Proposal 11: Service by email

Question 16- Do you agree with our proposal to allow service by email where a barrister's email address is known to the BSB, without requiring the consent of the barrister? If not, why not?

40. The Bar Council agrees with the above revision of the Regulations, particularly noting that there can be issues with effecting service by post, and that email service will increase time efficiency and reduce financial cost. The Bar Council considers this to be a pragmatic approach, noting that with email service it is proposed for the regulations to reflect that if an email is sent during working hours prior to 16.30 then it is deemed as being served on the same day. The Bar Council agrees that service by email will reduce administrative burden.

41. It is noted that other means of service are still allowed under the Regulations, where email is not appropriate or viable. This is an important principle particularly where an individual barrister's protected characteristics might well impact upon method of service.

Proposal 12: Clarifying the BSB's entitlement to costs

Question 17- Do you agree with our proposal to clarify the Disciplinary Tribunal Regulations relating to the BSB's entitlement to claim costs relating to the conduct of disciplinary proceedings? If not, why not?

42. The Bar Council agrees that this should be made clearer within the Disciplinary Tribunal Regulations. It is noted that costs orders remain at the discretion of an independent Disciplinary Tribunal panel.

43. We believe that costs orders should be imposed by the tribunal based on the facts, rather than the ability of the respondent to pay them. The BSB is then able to make the decision whether or not to pursue these costs.

44. It is noted that the BSB does not currently intend to recover internal costs for staff time in handling cases; and that the proposal is limited to recovering external costs (e.g. transcript services, external lawyers, witnesses or expert costs). The Bar Council would endorse that continued approach.

Proposal 13: The BSB's right of appeal

Question 18- Do you agree with our proposal to clarify the BSB's right to appeal in cases where a charge is only partially dismissed? If not, why not?

45. It is proposed to clarify regulations so that it is explicit that the BSB have the right to appeal decisions where charges have been either wholly or partially dismissed. The Bar Council endorses such an approach.

Proposal 14: Presumption of anonymity

Question 19- Do you agree with our proposal to introduce a presumption in favour of anonymity in disciplinary proceedings for any witness making an allegation of a sexual or violent nature? If not, why not?

46. The Bar Council views it to be of the utmost importance that witnesses are not dissuaded from assisting the BSB - particularly in relation to allegations of a sexual or violent nature.

47. The Bar Council strongly endorses the proposal to introduce a presumption of anonymity for any witness who is making an allegation of a sexual or violent nature. In the Bar Council's view, such anonymity ought to be available to individuals who are victims of suspected conduct of a sexual or violent nature; as well as to those who are witnesses to or have reported the conduct of that nature alleged.

48. Fairness requires that, even while the witnesses will not be referred to or otherwise identified in the public domain or within the charges, their identities will still be known to those participating in the proceedings – such as the BSB, the barrister and the tribunal panel.

49. The Bar Council is concerned to ensure that there is a codified discretionary power for the Bar Tribunal and Adjudication Service to adopt anonymity provisions in other sensitive cases (aside from those involving matters of a sexual or violent nature). This is particularly so in matters involving instances of coercive and controlling behaviour and bullying/harassment allegations including those based on a person's mental impairments or

other disability. The availability of anonymity provisions (and their application at early stages of proceedings) would assist in providing reassurance to potential witnesses and safeguarding their interests.

50. We would like the BSB to consider the effect of section 1 of the Sexual Offences (Amendment) Act 1992 and whether this creates a requirement for anonymity of witnesses rather than just a presumption in certain circumstances.

51. The Bar Tribunals and Adjudication Service is asked to consider the publication of guidance for the press in relation to anonymity provisions and their practical application, as well as social media guidance.

Proposal 15: Simplifying the grounds for referral to an interim panel and imposition of interim orders

Question 20- Do you agree with our proposal to simplify the grounds for referral to an interim panel and the imposition of interim orders? If not, why not

52. It is noted that the object of this proposal is to simplify and streamline the grounds for referring a case to an interim panel. The proposal is that the current five grounds for referral will be replaced by two grounds, focusing on protection of clients and other members of the public, and the public interest. The Bar Council considers that this proposal is uncontroversial. The Bar Council also agrees that the second limb of the current referral test is unnecessary and does not add anything to the first limb. Therefore, the Bar Council supports this proposal.

Proposal 16: Grounds for the imposition of an immediate interim suspension

Question 21- Do you agree with our proposal to broaden the power of the Chair of the Independent Decision-Making Body to impose an immediate interim suspension? If not, why not?

53. This proposal is, in the view of the Bar Council, more controversial for the following reasons. This is an emergency power, and so its scope must be strictly confined to use in emergency situations. It is easy to see why the need to protect the public, and in particular clients, might warrant the exercise of the Chair's power to impose an immediate suspension pending a panel hearing. It is much more difficult to see, however, how that could be justified on the basis of the public interest in maintaining the reputation of the profession.

54. The bar is set high for the imposition of an interim order solely on public interest grounds where there are no public protection concerns (see *R (Sheikh) v GMC* [2007] EWHC 2972 (Admin) and *NMC v Persand* [2023] EWHC 3356 (Admin)). Whether that threshold has been met is a matter for the interim panel at the interim order hearing. If there are no grounds for the Chair considering there is an immediate risk to the public which justifies an immediate suspension or disqualification – that being the current test under rE271 – it is difficult to see how such an order could be justified solely in the public interest.

55. The example that is given in paragraph 213 of the Consultation is that such a power might be used where a barrister has been remanded in custody and is likely to receive a custodial sentence. If the circumstances of the case give rise to a concern that clients or other members of the public need protection, the current provision is wide enough to allow the Chair to give that protection. If not, then it is difficult to see why a Chair would need to make any order pending the interim panel's determination.

56. The Bar Council does not consider that a positive case has been made out for extending this emergency power in the way that is proposed.

57. If the decision is taken to allow interim suspension in cases where the barrister could return to practice, but for the suspension, these should be heard with the urgency with a mechanism to allow for a suspension to be removed if there is a change in circumstances.

Proposal 17: Listing process

Question 22 - Do you agree with our proposal to streamline and simplify the listing process for hearings? If not, why not?

58. It is accepted that the current provisions are arguably convoluted and may, in practice, result in an unnecessary delay to an interim order panel hearing. Given the nature of the interim order jurisdiction, delays should be kept to a minimum.

59. However, the right of the barrister to have the listing take account of their reasonable availability must be preserved. It is not clear how replacing the current system with a simple proposal to list the hearing within 21 days will protect that right.

60. Therefore, the Bar Council will only support this proposal if it includes a provision that the barrister must be consulted about their availability before an interim panel hearing date is fixed, and that it should be fixed taking into account the reasonable availability of the barrister to attend the hearing.

61. It is acknowledged that the barrister's availability should not be the sole determinative factor. It is also accepted that a respondent to an interim order application should not be able to frustrate the process by claiming not to be available when they are or could be.

62. On the other hand, there might be good reasons why a barrister cannot attend a hearing on certain dates, and that should be taken into account. The current proposal makes no accommodation for that, because it proposes that the date is fixed first before the barrister is consulted about availability. The proposal is that the date will be fixed, and then it will be up to the barrister to persuade BTAS to move the date. That is putting the cart before the horse. The barrister who is at risk of being suspended from practice is a key stakeholder, and it is therefore, in our view, important that that they are first consulted about availability.

63. To help avoid barristers causing delay it would be appropriate for the rule to be that hearings will be listed within 21 days save for in exceptional circumstances and following consultation with the barrister. This would lay down a marker that the expectation is that the hearing is within 21 days and there needs to be a good and justifiable reason for it to be listed later than that.

Proposal 18: Direct referral powers

Question 23- Do you agree with our proposal to remove the power given to panels under the ISDRs to refer cases directly to a Disciplinary Tribunal? If not, why not?

64. It is noted that, whilst this power has never been used in practice, if it was it could end up in a matter going before a Disciplinary Tribunal before the investigation is complete. The Bar Council therefore agrees that removing that power is sensible and supports this proposal.

Proposal 19: Right of review

Question 24 - Do you agree with our proposal to allow the BSB the right to request a review of an interim order? If not, why not?

65. It is noted that if there is a significant change in circumstances whilst an interim order is in place, the BSB has no right to apply to an interim order panel to have the current order reviewed. This could, particularly if there is new evidence showing the level of risk has increased, result in the public not being properly protected. The Bar Council therefore supports this proposal in principle, provided it applies equally to both parties. Any request for review by the BSB would have to specify what it is alleged amounts to the significant

change in circumstances or other good reason justifying the review. It is agreed that, whichever party makes the application, the other should have the right to make representations.

66. It is noted that paragraph 243 of the Consultation proposes that the decision as to whether to convene a review hearing should be taken away from the President of COIC and given to BTAS. It is not clear who at BTAS would exercise this discretion. It is the Bar Council's view that the decision should be taken by the Chair of the interim panel (who already exercises a number of powers in relation to interim orders as set out in rE270, rE275 and rE276), not an unspecified person at BTAS.

Question 25- Do you agree with our proposal to allow both parties to make representations in relation to an interim order review request? If not, why not?

67. It is agreed that, whichever party makes the application, the other should have the right to make representations.

Proposal 20: Granting powers to the Disciplinary Tribunal panel to consider requests to review interim orders

Question 26- Do you agree with our proposal to allow the Disciplinary Tribunal panel to consider requests to review an interim order as part of the substantive hearing? If not, why not?

68. If it becomes necessary for a Disciplinary Tribunal to adjourn a hearing – particularly as such adjournments may end up being for a significant period – it should have the power to review any interim order that is in place. It is agreed that the Disciplinary Tribunal is in a good position to do so, given it will be seized of the case and will have a full understanding of it based on the material that has been supplied to it.

69. In a lot of cases, such a review is likely to be unnecessary. Any interim order that is in place can simply continue. Therefore, it is not necessary to make it mandatory for the Disciplinary Tribunal to conduct a review every time it adjourns. Provision should be made for either the barrister or the BSB to ask the Disciplinary Tribunal to review an interim order when a substantive hearing is being adjourned, or for the Tribunal to do so of its own motion.

Proposal 21: Rebranding the Fitness to Practise regime and the grounds for referral

Question 27. Do you agree with our proposal to re-brand the fitness to practise regime to a "health" regime and to make consequential amendments to the regulations to align with that re-branding? If not, why not?

70. The Bar Council agrees with the reframing of the fitness to practise regime to a health one. However, the Bar Council would invite the BSB to retain the formulation for the basis for action as a health condition (or conditions) that impair a barrister's fitness to practise, rather than the proposed ability to practise. The Bar Council is in favour of the change of language for the regime more generally but considers that assessing "ability" to practise in the context of health risks conflating ability in that context with ability or skill as a barrister more generally; and could encompass those whose "ability" is restricted because of a disability which can be addressed by reasonable adjustments. The Bar Council would invite the BSB to consider retaining fitness to practise as the relevant touchstone, or considering an alternative synonym which is not ability.

71. The Bar Council agrees that taking action in the barrister's own interests under the health regime doesn't add anything to the public protection and public interest criteria and should be removed.

72. We support the proposal for a condition of referral being where "c) the imposition of a restriction or conditions (or undertakings in lieu) is necessary for the protection of the public or is otherwise in the public interest." This would hopefully deter spurious and unfair referrals, making it clear that this process is for the protection of the public.

73. Although addiction is specifically excluded from protection under the Equality Act definition of disability (Equality Act (Disability) Regulations 2010/2128), we understand the basis for the BSB's explicit inclusion of it and think this is a sensible approach.

Question 28. Do you agree with our proposal to amend the threshold for referral into the health process by removing the requirement for incapacitation? If not, why not?

74. The Bar Council agrees with the proposal to amend the threshold for referral into the health process by removing the requirement for incapacitation. The Bar Council recognises that this is a lowering of the threshold, but accepts that if a health condition experienced by a barrister puts the clients or the public at risk, then it is appropriate for the BSB to be able to take action.

75. The Bar Council agrees that the focus on the health condition's impact on the barrister's fitness to practise should ensure that only those with serious and enduring health conditions fall under the health regime. The Bar Council notes that this focus is likely to mean that those who fall to be dealt with under the health regime would be considered to have a disability under the Equality Act 2010. In light of this and the BSB's identified previous limited experience dealing with such health cases, the Bar Council would encourage the BSB to ensure all aspects of these cases are considered through this lens, not just the regulations and supporting guidance. This should include template communications, training of case officers, etc.

Proposal 22: Convening a panel and fixing a hearing date

Question 29. Do you agree with our proposal to introduce an explicit duty for BTAS to convene a panel, fix a hearing date and notify both parties of the meeting date, following the referral of a barrister to a health panel by the BSB? If not, why not?

76. The Bar Council agrees with this proposal.

Proposal 23: Introducing a power to accept undertakings prior to a referral to a health panel

Question 30. Do you agree with our proposal to give the BSB the power to agree undertakings before and instead of a referral being made to a health panel? If not, why not?

77. The Bar Council agrees in principle that the BSB should have the power to agree undertakings with a barrister at any time, rather than this only being available at the end of the process. The Bar Council agrees that it is likely to be a more compassionate approach where the barrister recognises the impact their health has on their fitness to practise and what steps are required to mitigate this.

78. Given the BSB will be reaching these agreements with barristers who are likely to be unwell and the agreements will not be scrutinised by a health panel, the Bar Council would encourage the BSB not to treat a breach of / failure to comply with undertakings in these cases as a breach of the Handbook with the potential for disciplinary action. Rather, it would suggest these cases are progressed under the health regime on the basis that undertakings have proved ineffective or inadequate.

Proposal 24: Length of orders

Question 31. Do you agree that six months is no longer an appropriate time limit to impose on fixed term suspensions or disqualifications that may be imposed by health panels? If not, why not?

79. The Bar Council agrees that within the context of a health regime, a period of 6 months is likely to be too short to address the majority of health conditions that would fall to be considered as impairing fitness to practise. It also notes that regular, repeated reviews where there has been limited change could negatively impact the barrister's recovery.

80. However, we are not convinced that giving the BSB the power to make an indefinite order is appropriate without a much more robust adjudication and particularised medical

process. This is because such an indefinite order is a potentially career-ending provision, given the increased challenges to return to practice after a longer period away.

81. The Bar Council agrees that the imposition of these restrictions, and the timeframe for review, should balance a realistic timeframe for recovery and the potential benefit to a barrister of having a focus and stage of progression as part of their recovery against the potential detriment of regular but meaningless reviews.

Question 32. Do you prefer Option 1 or Option 2 and why? If you prefer neither option, please let us have your views on any alternative formulations that we should consider.

82. The Bar Council considers that an unlimited timeframe for restrictions places the onus on the barrister to seek a review when they feel sufficiently recovered to practise, which may lead to some barristers who have recovered not making such applications because of fear, anxiety, unfamiliarity, etc. Conversely, imposing a timeframe could lead to reviews where nothing has changed, and which could be detrimental to the barrister.

83. The Bar Council recognises that there are likely to be a very small number of cases where the prospects of recovery, sufficient to practise safely in future, are so remote that indefinite restrictions could be appropriate.

84. The Bar Council would agree with the proposal to retain the power to impose indefinite restrictions, but for this power to be exercised only in exceptional cases.

85. We would expect that even in cases of indefinite restrictions there would remain a process for a barrister to apply for this to be removed.

86. The Bar Council would encourage the BSB to identify an upper limit for cases where the restriction is not indefinite and would suggest 2 or 3 years. As set out at question 33 below, this should go alongside the power to review such an order before its expiry and, where appropriate, to make a further order where necessary to protect the public or in the public interest. This approach is likely to balance realistic timeframes for recovery with providing the barrister with a focus or target in their recovery. This could also support the barrister's welfare where progress is identified, even where restrictions remain necessary.

Question 33. Do you agree with our proposal to introduce powers for health panels to review a barrister's health and ability to practise before they resume practice, to ensure there are no ongoing public protection or public interest concerns? If not, why not?

87. The Bar Council agrees that restrictions for a defined period should be reviewed before expiry and that the health panel should have the power to review a barrister's health

and fitness to practise and to impose further restrictions if grounds for restriction still apply. This is likely to avoid a risk-averse approach being taken in the first instance, with potential overreliance on indefinite restriction.

Proposal 25: Giving panels the power to impose interim conditions at Preliminary Meetings

Question 34. Do you agree with our proposal to introduce a power for health panels to impose interim conditions (in addition to the existing power to impose an interim suspension or disqualification) at a preliminary meeting to protect the public or in the public interest? If not, why not?

88. The Bar Council agrees with this proposal. Allowing conditions to be imposed instead of suspension or disqualification on an interim basis supports proportionate decision-making and, where the barrister does pose a risk in practice, avoids this being disproportionately managed.

89. The Bar Council also notes the positive impact work can have on health and recovery, as well the importance of being able to earn a living, and agrees that barristers under the health regime should be permitted to continue doing some work, where appropriate.

90. As set out under Proposal 21, the Bar Council agrees that the barrister's own interests should not be a basis upon which the BSB should take action or impose interim restrictions.

Proposal 26: Rights of review and clarifying the review process

Question 35. Do you agree with our proposal to simplify the rights to review and the review process under the regulations? If not, why not?

91. The Bar Council agrees to this proposal. However, by removing the general right to request a review relating to an interim restriction at any time and requiring the barrister to demonstrate a significant change in circumstances or some other good reason, the ability to appeal should be extended to include a refusal to review the restriction and not just the restriction decision, as it is currently framed.

Proposal 27: Changes to Disciplinary Panel composition

Question 36- Do you agree with the introduction of a three-person panels for all disciplinary tribunals? If not, why not?

92. It is important that the disciplinary process is efficient, proportionate and cost effective. It appears that a change to three-member panels across the board would assist with that. This is likely to go some way to address criticisms relating to unacceptable delays in the BSB's processes, as set out in Baroness Harman's report of the independent review of bullying, harassment and sexual harassment at the Bar.⁵ However, it is important that efficiency does not come at the cost of fairness; any panel should be suitably qualified personnel and where such qualification can be achieved by training and voluntary shadowing to reduce cost then that is to be encouraged. It is acknowledged that three-member panels are common in other regulatory proceedings, including proceedings by the CILEX Disciplinary Tribunal and Solicitors Disciplinary Tribunal.

Question 37- Do you agree with our proposal for panels to have a legal (not necessarily barrister) majority, rather than a lay majority? If not, why not?

93. It is important that any such panel have a legal majority to maintain the confidence of the profession in the disciplinary process. But the Bar Council would go further. It considers that the legal majority should be a barrister majority, or a barrister-and-judge majority, to maintain basic principles of being judged by one's professional peers. Since the panels must judge whether there has been professional misconduct by a barrister, lived experience in the panel members of themselves having had to meet the requirements and standards of the Bar's Code of Conduct and Handbook, in the unique and sometimes pressured conditions of a barrister's professional life, is greatly to be desired. A solicitor or CILEX lawyer will not have had that experience.

Proposal 28: Changes to the Independent Decision-Making Panel

Question 38- Do you agree with altering the composition of IDB panels considering enforcement cases from five to three-person panels, with a lay majority? If not, why not?

94. It appears that a change to three-person panels across the board would assist with making the process more efficient, proportionate and cost effective. However, it is important that any panel has suitably qualified personnel and where such qualification can be achieved by training and voluntary shadowing to reduce cost then that is to be encouraged.

95. By retaining a non-legally qualified majority in a reduced panel of three, there could well be a lack of sufficient and appropriate legal input into IDB decision-making, leading to more challengeable decisions. Is the BSB able to provide any data analysis comparing appeals against BTAS outcomes for five-person panels to three-person panels? It would be useful to know the proportion of successful challenges to decisions of three-person panels

⁵ <https://www.barcouncil.org.uk/static/8ae513e7-07e2-4b20-b49c1c8dbbfa1377/563cbd91-791f-4ce0-9aa12600331609c8/Report-master-file-6.pdf>

compared to those of five-person panels. If statistical analysis is not possible, it would be beneficial if the BSB could provide further information about the differing outcomes for the respective panel compositions, even if anecdotally.

96. We think tracking and analysis of the equality and diversity data of panel members would be helpful, to check whether there are any issues that need addressing. Further consideration of the importance of a consistent approach between the IDMP and BTS panel may also give rise to the need for a legal majority for both.

Proposal 29: Changing the requirements for panel chairs

Question 39- Do you agree with our proposal to change the existing requirements for a panel chair to a requirement for a legally qualified chair with at least 15 years' practising experience? If not, please indicate why this criteria is insufficient?

97. The reasons for not appointing a separate legal advisor to a Disciplinary Panel, as stated at paragraph 371, appears sound.

98. It is important that the Chair of a panel has suitable qualification, experience *and also status* to maintain the confidence of the profession. There is a real risk that more senior practitioners would lose trust in the process if the sole criterion for a legally-qualified chair were changed to a requirement that they should simply have had at least 15 years' practising experience. In terms of legal careers, that is not very much; particularly relative to the experience of the more senior members of the barrister's profession. However, if length of legal experience were to be a relevant criterion, we would agree with the BSB's choice of 'practising experience' in preference to just counting the years since qualification.

99. The BSB proposal is to move away from requiring the panel chair to be a judge or King's Counsel (assuming 3-member panel). It proposes to replace this with a requirement for the panel chair be '*a barrister, solicitor or CILEX lawyer with at least 15 years' practising experience*'. The Bar Council does not consider this proposal to be acceptable. We think that the benefit of the present Judge/KC requirement lies not just in it denoting the chair's length of experience, but also that it gives the panel as a whole both authority and status. It means that the chair will successfully have passed a rigorous external vetting process, e.g. the King's Counsel Appointment Process or Judicial Appointments Commission. It is a guarantee to even senior members of the profession that the panel's decision-making will be led by someone of equivalent or higher status to themselves; and that its decisions should therefore command respect. Removing this requirement risks substantially undermining the credibility of the disciplinary process in the eyes of the profession.

100. The importance of a credible chair of the Panel, in the view of the respondent barrister, should not be underestimated. That credibility of a KC or Judge chair brings respect and encourages investment in the process.

101. As barristers, we are accustomed to Judges' as arbiters of both cases but also our professional conduct in court. A move to a solicitor or CILEX chair risks a perception that the barrister is no longer being judged by their peers / the public, but also branches of the legal profession who are not as immersed in the code or our practices on a daily basis. Experience sitting in a judicial/tribunal capacity is also particularly relevant to the skills required by the role of a panel chair.

102. Maintaining the present Judge/KC requirement will also ensure that the panel is led by a person with personal experience of meeting the requirements of the Code of Conduct and the Handbook. See paragraph 93 above.

Proposal 30: Panel secretary role

Question 40- Do you agree with our proposal to replace the role of a clerk in disciplinary tribunals with that of a Panel Secretary who will be a BTAS employee? If not, why not?

103. In principle the Bar Council agrees with this proposal. But there is a lack of clarity both about the data relied on and about potential costs implications.

- It is stated (at paragraph 384) that in 2025 BTAS staff covered 82% of all hearing days. Was this 82% of days in 2025, up to the date the Consultation was published in 2025; or is it a typographical error, which should read '2024'?
- It is suggested that the proposal may increase efficiency. It is entirely unclear, however, what the cost will be to the profession, relative to current arrangements. It is noted (paragraph 386) that the intention is specifically to recruit for the Panel Secretary role. This will require further expenses on staffing, and so it would be useful to know what the estimated cost of this will be.

104. Pending further information, the Bar Council cannot state a final position on this proposal.

Proposal 31: Panel composition in health proceedings

Question 41- Do you agree with our proposal to change the composition of panels in health proceedings? If not, why not? If you do, do you prefer option 1 or option 2?

105. It is important that the disciplinary process is efficient, proportionate and cost effective. It appears that a change to 3-member panels across the board would assist with

that. It is noted (paragraph 400) that Option 1 presents both practical and potential cost implications.

106. Option 2 appears to us the better choice. It provides greater flexibility, in that a medical member with experience in the health conditions under examination could be selected as a member of the panel. Option 2 removes the need to appoint an external medical advisor, which would also save on costs. With option 2, it is also considered that a legally qualified chair should sit, in order to retain the confidence of the profession and of the barrister in question, in the process.

Proposal 32: Bringing forward the timing of publication of disciplinary cases

Question 42- Do you agree in principle that the point of publication of the fact that disciplinary proceedings are underway should be brought forward? If not, why not?

107. The Harman Review into Bullying and Harassment at the Bar identifies the following benefits of publishing the name of the respondent at the point that a decision is taken to pursue charges:

“Firstly, it is in the public interest for practitioners charged with serious misconduct to be identified to ensure transparency for professional and lay clients. Secondly, it is important in order to encourage potential further complainants to come forward in the knowledge that they are not alone. Thirdly, it may serve to protect other potential victims who would otherwise have been unaware of the risks.”⁶

108. The BSB will be mindful that earlier publication of the fact that disciplinary proceedings may have a disproportionate effect on the barrister in some cases; and not just where the barrister is ultimately acquitted of misconduct. But we accept that there has to be a single rule, rather than a special rule for allegations of sexual misconduct, bullying and harassment. We therefore agree that publication of the relevant fact should be brought forward generally, subject to a power or discretion to delay publication in the particular case.

Question 43- If the point of publication is brought forward, do you prefer option 1 or 2 and why? Please explain why.

109. We are in favour of option 1 which brings forward the date of publication of disciplinary proceedings being initiated against a barrister to align with the charges being

⁶ [Independent review of the bullying, harassment and sexual harassment at the Bar, Baroness Harriet Harman KC](#), September 2025:81

served on a barrister. This is consistent with a move towards greater transparency in disciplinary proceedings, supported by Baroness Harman in her recent review into Bullying and Harassment at the Bar. Baroness Harman stated that, “the name of a respondent should be made public when the decision is taken to pursue charges”.⁷ We agree with Baroness Harman’s rationale for publication, quoted in our response to question 42.

110. Furthermore, it is in line with the Solicitors Regulator Authority’s approach and with that of criminal law. The retention of a discretion to delay publication where publication on that date “risks prejudicing other investigations or legal proceedings or may have a disproportionate impact on the individual barristers’ Article 8 right to a private life”,⁸ is however essential, and will act as an important safety valve.

Question 44- What are the circumstances in which you think the rights of a barrister will outweigh the principles of transparency such that publication will not be appropriate?

111. We envisage that the circumstances which may justify a departure from publication on the date of service of charges will be narrowly drawn and will be rooted in Article 8 rights. Baroness Harman in her review of Bullying and Harassment at the Bar, recommended the following approach for anonymity applications by the respondent to BTAS proceedings,

“Any application by a respondent for an anonymity order should be made within fourteen days following a decision to charge and must be dealt with swiftly at an interlocutory hearing. It must only be granted in exceptional circumstances.”⁹

112. We endorse her recommendation. There will have to be a short period between the making of a decision to charge, one communicated to the barrister, and the formal service of the charges, giving the barrister an opportunity to apply for anonymity.

113. We do not think it profitable at this stage to try to predict or anticipate the circumstances in which a likely infringement of Article 8 rights will justify departure from the standard rule on date of publication. Each case will depend on its own facts, and a balancing exercise may have to be undertaken.

⁷ Ibid: 81

⁸ Ibid:100

⁹ Ibid: 81

Proposal 33: Public vs private hearings across the enforcement process

Question 45- Do you agree with our approach to holding administrative sanctions and appeals in private? If not, why not?

114. The Bar Council does not find this controversial and agrees with the BSB's proposed approach. Non-serious BSB Handbook breaches are unlikely to impact the reputation of the profession and public confidence in it. The arguments for holding administrative sanctions and appeals in private seem strong. If the aim of the sanctions regime is to prevent repetition and/or escalation of improper behaviour, this is more likely to be achieved where a barrister can be open about their failings without anxiety about publicity. Privacy here will likely encourage greater frankness and cooperation. Nonetheless, it is important that the guidance on determining appropriate sanctions in these cases is robust. Further, the BSB must retain a record of such decisions, so that it can take account of them if further concerns are raised later in relation to the barrister.

Question 46- Do you agree that determinations by consent should continue to be held in private? If not, why not?

115. We agree that determinations by consent should continue to be held in private.

Question 47- Do you agree that interim suspension hearings should continue to be held in private (unless the barrister requests a public hearing)? If not, why not?

116. The Bar Council agrees that interim suspension hearings should continue to be held in private (unless the barrister requests a public hearing).

Question 48- Do you prefer Option 1 (that all case management and interlocutory application hearings are generally held in public) or (Option 2 (that the first case management hearing is in private but generally all further hearings will be in public unless the Tribunal orders otherwise)? Please explain why.

117. Given our support for proposal 32, which is for publication of disciplinary proceedings at the point a barrister is served with disciplinary charges, it follows that we here prefer Option 1. This would mean that all case management and interlocutory application hearings should generally be held in public. This is consistent with our support for increased transparency in the disciplinary process generally.

Question 49- Do you agree that substantive disciplinary tribunal proceedings should remain in public? If not, why not?

118. The Bar Council supports retention of the status quo of substantive hearings being held in public, with a discretion for them to be directed to be heard in private.

Question 50- Do you agree with our approach to holding all fitness to practise hearings in private, subject to the barrister's right to request a public hearing? If not, why not?

119. We consider that all hearings under the health process should remain in private, subject to the barrister's right to request a public hearing.

Question 51- In what circumstances should the outcome of fitness to practise/health decisions be published?

120. The current position is that these decisions are not published, but notice of a decision can be given to any person, if that is justified in the public interest. There does not appear to be sufficient justification for a departure from this status quo, or for making any significant change which impacts on right to privacy regarding health.

Proposal 34: Media and non-party access to documents

Question 52- Do you agree with our proposal not to amend the regulations to address the issue of the media and non-party access to documents, but to work with BTAS in the future to produce guidance on the approach to such issues? If not, why not?

121. We agree with this proposal, and would wish to have an opportunity to provide input on the proposed guidance.

Question 53- Do you have any comments or views in relation to our assessment of the equality impacts of our proposals? Where possible, please provide evidence.

122. We agree that proposals which lead to a more streamlined and efficient disciplinary process could have a positive impact on some groups. For example, women, who are disproportionately affected by sexual harassment are likely to benefit from the proposed clarity about special measures and confidentiality from the outset. Barristers with the protected characteristics of race, sex, age, sexual orientation and gender reassignment will also benefit from the earlier publication of charges due to awareness of the risks posed by some individuals. This may also lead to stronger cases, due to the possibility for more

victims and or witnesses to come forward, and therefore an increase in successful disciplinary proceedings against those who pose a threat

123. Proposal 17, streamlining interim suspension, with the result that persons that pose a risk are suspended quicker, could positively impact barristers with the protected characteristics of race, sex, age, sexual orientation and gender reassignment, because these groups are more likely to experience sexual assault, violence and harassment.

124. It is likely that the proposals to change the fitness to practice rules, in particular lowering the threshold by removing the requirement for incapacitation, *could* have an impact on barristers with a number of protected characteristics, in particular disability, pregnancy and maternity, and age. Whether it will do so depends on regulations and associated guidance setting the thresholds at the appropriate level.

125. In relation to proposal 24, if power is given to health panels to make an order for indefinite suspension on grounds of inability/ unfitness to practice (Option 1, Proposal 24) – a career ending order –that could have a disproportionate impact on barristers with the protected characteristics of disability and (possibly) of age. Again, we would hope that indefinite suspensions would only be ordered in the context of a more robust adjudication and particularised medical process; and that guidance can be formulated as to when and how frequently suspensions from practice should be reviewed, to avoid unjustified discriminatory impacts.

126. Finally, although the equality assessments are provided throughout the consultation document, it would have been useful to have the equality impact assessments and proposed mitigations collated in order to better assess and comment on them overall.

Question 54- Do you have any comments or views on the potential data protection and privacy issues raised by the proposals? Where possible please provide evidence.

127. The Bar Council supports the principle of transparency in regulatory processes but notes that the proposals raise significant data protection and privacy considerations under the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 (DPA 2018).

128. While paragraph 5(3) of Schedule 2 to the DPA 2018 provides an exemption allowing the Bar Standards Board (BSB) to process personal data where necessary for the exercise of a regulatory function, this exemption is not absolute. It disapplies certain data subject rights only to the extent necessary for that purpose but does not exempt the BSB from compliance with the core data protection principles set out in Article 5 UK GDPR—namely, lawfulness, fairness, transparency, data minimisation, accuracy, and proportionality.

129. The proposals to make public the fact that a barrister has been charged with serious misconduct at an earlier stage and to widen access to tribunal documents for journalists and third parties engages these principles and raises fairness concerns.

130. The Bar Council considers that the BSB should conduct a Data Protection Impact Assessment (DPIA) to evaluate the proportionality of these proposals and to ensure that the legitimate aim of transparency cannot be achieved by less intrusive means—such as anonymised or summary publication before findings are made, or restricted access to tribunal documents subject to confidentiality undertakings.

131. Any reliance on the exemption under paragraph 5(3) of Schedule 2 should be considered on a case-by-case basis, with a documented assessment demonstrating that the proposed disclosure is necessary and proportionate to the regulatory objective pursued.

132. If earlier publication or wider disclosure is implemented, the Bar Council recommends that the BSB adopt appropriate safeguards, including:

- clear contextualisation that proceedings are ongoing and no finding has yet been made;
- time-limited publication, with prompt correction or removal upon conclusion of the case; and
- redaction or anonymisation of personal data where appropriate to protect the privacy of various parties.

133. Such measures would help ensure that the BSB's transparency objectives, which the Bar Council supports, are achieved in a manner consistent with the principles of fairness, proportionality, and respect for privacy under UK data protection law.

Bar Council

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