

Bar Council investigation – the required undertakings

1. (a) Develop proposals to achieve the outcome that Bar Council staff and officers that provide advice or assistance to the BSB on regulatory functions will respect the principle of regulatory independence by ensuring their involvement is transparent and the risk of undue influence is on regulatory functions is minimised;
(b) Seek the approval of the LSB to those proposals by 16 December 2013 and publish them by 20 December 2013; and
(c) Report to the LSB any material failure to implement and comply with the approved proposals.
2. (a) Develop proposals to achieve the outcome that Bar Council staff and officers do not attend non-public sessions of the BSB Board and its committees other than in exceptional circumstances and that any reasons for attendance is documented and made public. For the avoidance of doubt this does not preclude arranging meetings between the BSB and Bar Council to enable the Bar Council to represent or promote the interests of barristers.
(b) Seek the approval of the LSB to those proposals by 16 December 2013 and publish them by 20 December 2013; and
(c) Report to the LSB any material failure to implement and comply with the approved proposals.
3. Implement measures to ensure that the funding of the process whereby a barrister can complain about unpaid fees will only be via the Practising Certificate Fee from April 2014. This must remove the requirement that a barrister must have paid the Bar Council Member Service Fee, or any other voluntary fee, in order to complain about non-payment of fees by a solicitor or other authorised person under the rules relating to the list of defaulting solicitors and other authorised persons 2012 (approved 2 March 2013) and the scheme for complaining to the Bar Council for publicly funded matters 2012 (approved 2 March 2013). For the avoidance of doubt the Bar Council may not impose any voluntary fee, levy or percentage charge for considering whether to or adding a solicitor or other authorised person to the list of defaulting solicitors as defined in Part X of the BSB's Code of Conduct.
4. By the end of July 2014, complete and publish a review (by delegation wholly to the BSB) as to whether it is appropriate for the standard contractual terms, the related BSB Code of Conduct Cab Rank Rule provisions (including 604 (g) and 604 (h)) and definitions within part x of the BSB's Code of Conduct to remain within the BSB's regulatory arrangements. Additionally if an application to the LSB to alter the BSB's regulatory arrangements is necessary following the review, it must be made by July 2015.