

Direction 154 issued under Part 3 of Schedule 4 to the Legal Services Act 2007 to the General Council of the Bar (The Bar Council)

1. This is a direction issued pursuant to paragraph 19(3) of Schedule 4 to the Legal Services Act 2007 (the “Act”).
2. Unless stated otherwise, words in this direction are used as they are defined in the Act.
3. In accordance with paragraph 19(3) of Schedule 4 to the Act, the Board has directed that the following alterations by the Bar Council to its regulatory arrangements be treated as exempt alterations for the purposes of paragraph 19(2)(c) of Schedule 4:

Amendments to Part II, Paragraph 1(d) of the Constitution of the General Council of the Bar (“The Bar Council’s Constitution”), which is contained in the ‘Introduction and Constitution of the General Council of the Bar’

Proposed changes

4. The Bar Council is proposing changes to the Bar Council’s Constitution. The Bar Council has stated that the proposed amendments are aimed at strengthening the delegation of regulatory functions to the Bar Standards Board (BSB) and making clearer that the Bar Council delegates regulatory functions to the BSB in entirety. The delegation of the regulatory functions by the Bar Council to the BSB is to comply with the LSB’s Internal Governance Rules 2019 (IGRs). There is no change to the nature of the delegation itself. The proposed changes are shown in track changes below.

Functions and powers of the Bar Council

1. *The Bar Council is established to discharge the following functions:*

(d) As the Approved Regulator, to create a Board to be known as the Bar Standards Board, to which it delegates the discharge of its regulatory functions in compliance with section 28 of the Legal Services Act 2007. The Bar Standards Board shall be constituted in accordance with such constitution as the Bar Council it shall from time to time determine, and it shall notify the General Council of the Bar in advance of any change(s) being considered by the BSB Board. Functions and powers of the Bar Standards Board are set out fully in its constitution.

5. Minor consequential amendments are made to the Standing Orders for Committees of the General Council of the Bar of England and Wales. Most of Part One, paragraphs 7 – 13 of the Standing Orders, “Discharge of the regulatory functions” is omitted. A reference from Part One is retained at paragraph 5 (previously paragraph 13), modified as shown in tracked changes below.

“No member of the BSB may be responsible for any representative function(s) or be a member of a Bar Council committee. No member of the Bar Council may be responsible for any regulatory function(s) or be a member of a BSB committee”.

Reason for exemption direction

6. The LSB has considered the proposed alterations against our Significance, Impact and Risk Assessment Framework (“SIR Framework”) and is satisfied that, in accordance with the SIR, the proposed alterations are suitable for exemption.
7. The proposed amendments to the Bar Council’s Constitution do not represent a substantial change in regulatory policy or approach. They are drafting changes designed to provide greater clarity on the delegation of regulatory functions to the BSB and made for the Bar Council to comply with the IGRs.
8. This direction is limited to the approval of amendments made by the Bar Council to the Bar Council’s Constitution. It does not cover the Bar Council’s wider compliance with the IGRs.
9. A copy of the alteration was submitted to the Board on 29 June 2020.
10. This direction is to be deemed made on and to be effective from 14 July 2020.

For and on behalf of the Legal Services Board

14 July 2020