Equality Impact Assessment (EIA) – Adding and Amending Referred Allegations

Date of Assessment	12/05/2025 Updated 03/03/2026 Further updated 17/09/2026, following consultation feedback
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Adding and Amending Referred Allegations
Aim/Purpose of Policy	We propose to introduce powers in the Disciplinary Tribunals Regulations that will allow decision makers (both staff and IDB) at the post-investigation stage to: i. Add further breaches of the Handbook to those contained in the allegations or amend the wording of existing allegations and take a decision on what enforcement action to take in relation to those breaches without the need to obtain a further response from the barrister. Any such power will need to be subject to the consideration of fairness and there being sufficient nexus to the existing allegations being considered. ii. Add breaches for non-cooperation with the BSB(i.e. CD9/ rC64), where there is evidence of non engagement by the barrister under investigation without recourse to further comment from the barrister. If a breach is added then a decision can be taken as to what action should be taken.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE19.4 - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either

adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.
- Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts.
- Could unconscious bias have a significant impact?
- Don't leave any box blank; if there will be no impact on a particular group then explain why.

Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on disability.
Age	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on age.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.

Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other identified group.

How does the policy advance equality of opportunity?
This policy does not explicitly set out to advance equality of opportunity.

How does the policy promote good relations between different groups?
This policy does not explicitly set out to promote good relations between different groups.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	X
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	
Reason for decision: The ability to add or amending referred allegations does not seem to have any tangible equalities based impacts, either adverse or positive. It is an additional power that improves the efficiency of the BSB, but does not directly impact on individuals. The assessment of the first half of this proposal remains unchanged, and the consultation has not given rise to any additional equalities concerns. However, the second half of the proposal clarifies that the BSB has the		

power to add the allegation of non-cooperation without the barrister's consent. When considering matters of equality, we must consider if there is any reason that any one group may be more likely to be non-cooperative. Whilst we do not have data which analyses this, it may be reasonable to assume that those who are disabled may become "uncooperative" due to illness, or that those who are neurodivergent and who may struggle to answer emails in a timely manner may have the allegation added when it is not reasonable. In order to mitigate this the BSB should be aware of any reasonable adjustment an individual may require relating to cooperation, and must withdraw the allegation if it later comes to light that the reason for the non-cooperation was health related.

One respondent to the consultation rightly pointed out that a deeper consideration on the concept of "fairness" is required. We shall address this in guidance, ensuring it is sufficiently expanded upon. At all stages, reasonable adjustments should be considered and duly implemented should we have no reason to decline them. This is true of any proposal or system.

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.

Action Required	Desired Outcome	Person Responsible	Timescale
The concept of fairness should be expanded on within guidance, ensuring it is sufficiently detailed to capture all major incidents.	All individuals subject to this proposal will be considered with genuine fairness.	N/A	N/A

Equality Impact Assessment (EIA) - Allegations

Date of Assessment	06/05/2025
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Allegations
Aim/Purpose of Policy	We propose to introduce powers to allow the BSB to conduct an investigation for the purpose of establishing whether or not there is evidence of a potential breach of the Handbook, before there is any requirement to decide that there *is* evidence of a potential breach and before the requirement to put specific, particularised allegations to the barrister for a response.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulation set out within the handbook; rE2, rE12 – rE18 - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law. - Comparative research into other organisations, including the SRA, Nursing and Midwifery Council, General Dental Council, General Medical Council and Crown Prosecution Service.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.
- Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts.
- Could unconscious bias have a significant impact?
- Don’t leave any box blank; if there will be no impact on a particular group then explain why.

Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	The primary issue at hand that impacts upon disability is the alteration in the notification of the barrister. For those who are neurodivergent or who are mentally unwell, an unclear notification without sufficient detail of allegations may prompt significant distress, leading to the worsening of symptoms. This is a potential adverse impact. On the inverse, this practice change could allow barristers more time to prepare and respond, which is a positive impact to those already outlined above. A balancing act must be struck, ensuring that a sufficient appraisal is afforded to the barrister at an early stage, even if it is not the conclusion of the investigation.
Age	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on age.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	Should notice of a report reach a barrister who is on maternity leave (used here not within an employment context, merely as a descriptor for any leave taken from practice to attend to childcare) then they may be disproportionate disadvantage due to a conflict in commitments. Being out of practice may make it substantively harder for them to accrue evidence to rebut any report made.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other group.

How does the policy advance equality of opportunity?

An earlier notification of reports may provide additional time to construct a rebuttal and collect evidence, and therefore may equalize access to the right of reply.

How does the policy promote good relations between different groups?
The proposal will be applied equally across all groups.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	X
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	
Reason for decision: Due consideration must be to what is said in the initial communication with the barrister against whom a report has been raised. There must be sufficient information presented so as not to cause unnecessary distress, which may more severely impact certain protected characteristics. The consultation responses did not raise any additional concerns in relation to allegations. The recommendations made within this EIA remain unchanged.		

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.

Action Required	Desired Outcome	Person Responsible	Timescale
Provisions should be added to ensure that the initial communication is sufficient to not cause unnecessary distress.	Comprehensive provisions (guidance or practice changes) which will alleviate the concerns listed above.		

Equality Impact Assessment (EIA)- Amending the Powers to Reconsider Post Investigative Decisions

Date of Assessment	22/05/2025 Updated 14/03/2026 Further updated on 17/09/2026, following consultation feedback
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Amending the Powers to Reconsider Post Investigative Decisions
Aim/Purpose of Policy	Our proposal is to amend the power of reconsideration under rE61 of the Enforcement Decision Regulations (EDRs) so that the Chair/Vice Chair of the IDB (or somebody who the power is delegated to in their place) can make an initial decision on whether the criteria for reconsideration are met. The proposal is that this individual will perform a "gatekeeping" role and, where they consider the criteria are met, the matter will be referred onto an IDB Panel to determine the outcome of the reconsideration itself. As part of this change, we are also proposing a minor drafting change to rE62 to clarify that the IDB (as well as the Commissioner) may, following a reconsideration under rE61, take any further or different action as if an earlier decision had not been made.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE61 and rE62 - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4). Consider: • Will people from all groups be able to access the service; will there be any barriers for certain groups? • Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?

• Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact. • Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts. • Could unconscious bias have a significant impact? • Don't leave any box blank; if there will be no impact on a particular group then explain why.	
Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	There is a possibility that avoiding delays of any nature may be a positive impact on individuals who are neurodivergent, or who are living with a mental illness, as it may reduce the stress these individuals encounter should issues in proceedings occur.
Age	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on age.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other identified group.

How does the policy advance equality of opportunity?
A removal of unnecessary delays will ease participation for those who are neurodivergent or are experiencing mental health difficulties.

How does the policy promote good relations between different groups?
This proposal will be applied equally across all groups.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	X
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	

Reason for decision:

The change of powers from the Commissioner or the IDB panel to the Chair of the IDB should not materially change the risks involved within the powers themselves. Whilst there is always a risk for unconscious bias in the decision making, that risk is only exacerbated by the change from multiple people to a single person, meaning the risk of unchecked bias is heightened. On balance however, we do not feel like the risk is significant enough to alter this proposal, provided all BSB equality and diversity policies are followed, and that the IDB chair is appropriately trained on EDI matters.

Whilst the consultation did not raise any additional concerns, the ER team spoke at length regarding the likelihood and impact of unconscious bias as a result of this proposal. It was concluded that the inception point of unconscious bias is likely to be the initial decision as opposed to decisions related to the IDB, and either way, efforts to anonymise barristers will be made prior to the decision. We believe therefore that the

impacts of this proposal, based on the recommendations of this EIA are sufficiently mitigated.

One respondent has stated in their response to the second consultation that "efforts" is not a sufficient mitigation to this proposal, and that anonymisation should take place by default. However, the BSB's current practice is not to anonymise by default and an EIA was produced at the time that operational decision was taken by the BBS. While we have not shared the EIA as part of this set, a summary of the details set out in that EIA are as follows:

- The consistent default anonymisation process was found to be leveraging significant resource upon the Investigation and Enforcement Team.
- Research demonstrated that the impact of anonymisation at this stage was having minimal impact on outputs. For example, "Reports indicate that the overall effect of redacting has been minimal. Between 2012 and 2014 the average number of cases referred to disciplinary action involving a minoritised ethnic barrister was 26.5%, this rose to around 28% in 2015-19 and is now at 25% for 2019-2024. This most recent report indicated that there was still a slight disparity in existence for the period since 2019 on the basic statistics. However, it is recognised that when allowing for regression analysis there were not "statistically significant associations" between ethnicity and decisions to refer to disciplinary action."
- Comparative research was conducted with the GMC and SRA, both of whom have adopted approaches comparable with our present approach.
- Adequate safeguards are in place throughout the process, rendering this particular element obsolete.

Given that the BSB's current practice is not to routinely anonymise matters before the IDB and the decision was made separate from the current proposals, it is not subject to a broader analysis within this assessment.

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.

Action Required	Desired Outcome	Person Responsible	Timescale
N/A	N/A	N/A	N/A

Equality Impact Assessment (EIA) – Case Management by BTAS

Date of Assessment	22/05/2025 Updated 16/03/2026
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Case Management by BTAS
Aim/Purpose of Policy	We are proposing to introduce a suite of reforms to enable cases to be referred for directions by BTAS more quickly following the decision to refer allegations to a Disciplinary Tribunal, ultimately allowing for more proactive case management by BTAS. The proposal is that the BSB will no longer seek to agree directions as part of the initial case management process. Once charges and any evidence have been served (or after a 28-day period has passed without the service of evidence), the matter will be referred to BTAS who will send case management questionnaires to the parties and, based on the responses, will set appropriate directions for case progression. We anticipate that directions relating to case management will be issued at this point in all cases, regardless of whether there are issues in dispute between the parties.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE225-rE233, rE238, rE241-rE242 - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4). Consider: • Will people from all groups be able to access the service; will there be any barriers for certain groups? • Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination? • Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.

• Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts. • Could unconscious bias have a significant impact? • Don't leave any box blank; if there will be no impact on a particular group then explain why.	
Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on disability.
Age	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on age.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other group.

How does the policy advance equality of opportunity?

This proposal allows for the "Directions Judge" to be appointed from a pool of legally qualified chairs, as opposed to the appointment being restricted to a KC or a judge. This larger pool will contain a greater level of diversity, and promote equality of opportunity, especially for those who are women, those who are from the global majority, and those who are younger. The BSB no longer intends to proceed with the proposal to use legally qualified chairs, and therefore the above analysis no longer applies.

How does the policy promote good relations between different groups?
The proposal will be applied equally across all groups.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	X
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	
Reason for decision: This proposal is primarily concerned with increasing the efficiency of the referral process. The process is not set to be significantly changed (save for the introduction of a questionnaire), despite the process being transferred over to BTAS. We see no evidence that this transferral would create any tangible impacts on any of the protected characteristics listed above. Whilst the impact of legally qualified chairs may create impacts, these are dealt with in a separate EIA, despite being mentioned in this proposal. The consultation responses did not raise any additional concerns in relation to case management by BTAS. The recommendations made within this EIA remain unchanged.		

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale
N/A	N/A	N/A	N/A

Equality Impact Assessment (EIA) – Confidentiality and Transparency

Date of Assessment	23/05/2025 – Updated 11/06/2025 – Updated 27/03/2026
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Confidentiality and Transparency
Aim/Purpose of Policy	- Confidentiality: Firstly, we are considering adding a new, standalone exemption to clarify that the BSB may disclose the existence of a report or details about it to further an investigation, for example by contacting third parties to gather evidence. The precise wording will be drafted in a way that is capable of capturing any action taken by the BSB that is preparatory to or in the pursuance of enforcing the requirements under the Handbook. Secondly, there is little understanding of the intended scope of the reference to 'regulatory assurance' in rE64.1. As such, we propose to remove this and introduce an exception to the duty of confidentiality which will permit the BSB to disclose information to other regulatory bodies, such as the Legal Services Board and other regulators, Section 28(3) Legal Services Act 2007. 5 Bloomberg LP v ZXC [2022] UKSC 5. without requiring approval on the ground that such disclosure is in the public interest (under rE64.7 - which we also propose to retain). These proposed changes would largely clarify and formalise existing practice. - Publication: Bearing in mind the approach under the criminal law and of some other regulators, we consider that there may be a public interest in bringing forward the date of publication of details about disciplinary cases, although we have not reached a firm conclusion as to when the point of publication should be. Earlier publication of disciplinary charges would increase awareness of the cases that the BSB is prosecuting and could improve trust and confidence in the BSB's disciplinary process. We have considered a number of options and, in our view, it is important to link publication to a clear and fixed point in the process that will occur in every case (unless there are exceptional circumstances), to promote transparency, consistency and equality. Keeping these principles in mind, we have identified the following options: 1. Publication by the BSB upon the service of charges; or 2. Publication by BTAS following the setting of case management directions. Our strong preference is for publication to occur only once BTAS, as the independent body, has become seized of the matter. This allows for any objections to publication to be considered independently as part of the usual case management by a 'directions judge' and ensures the BSB is not acting unilaterally in making decisions that may have significant reputational consequences for individuals. Accordingly, our preferred option is for publication to take place once case management directions have been set by BTAS. The intention is not for BTAS to need to make a separate decision on publication in each matter, as this could lead to inconsistency, but publication would follow the setting of case management directions. Our proposal would be for BTAS to publish at the point case management directions have been issued or within a certain period (for example 7-14 days) and any departure from that approach would be decided by BTAS when ordering directions, for

example in circumstances where a barrister signals an intention to make an application for anonymity. In such instances the case may be published with the charges and 'a barrister' or random initials. We are also proposing to introduce case management questionnaires as a means of giving BTAS more active case management responsibility. We anticipate that the issue of publication of charges will be brought to a barrister's attention in the case management questionnaire. Further, the barrister's completion of that questionnaire will be the opportunity to flag any intention to object or, for example, by making an application for anonymity or for the hearing(s) to be in private, which may be relevant to the issue of publication; although an application for a private hearing would not necessarily preclude initial publication of brief details of a case

- Public vs private hearings across the enforcement process: Considering these proposals, and consistent with the principle of transparency, we believe that hearings before BTAS should generally be held in public, unless there is good reason otherwise. We have therefore undertaken a review of the current approach to hearings across the enforcement process, with the aim of identifying potential areas for change. A summary of the outcome of our review is provided in the table below, including an outline of the position under the current regulations for context. Any proposals for change are highlighted in blue for ease.

Type of hearing	Is the hearing in public or in private under the current regulations?	Is the outcome published under the current regulations?	Outcome of our consideration
Administrative sanction appeal[11]	Private	No	Private (no proposal for change)
Determination by consent[12]	Private	Yes	Private (no proposal for change)
Interim suspension hearings (including reviews and appeals)	Private, unless the barrister requests a public hearing	Yes	Private, unless the barrister requests a public hearing (no proposal for change)
Initial case management directions	Private	No	Private (no proposal for change)
Interlocutory applications (including applications for anonymity, stay and strike out) and any further case management hearings	Private[13]	No	Public, unless the Tribunal determines otherwise (proposal for change)
Substantive tribunal hearing	Public[14]	Yes	Public, unless the Tribunal determines otherwise (no proposal for change)
Fitness to Practise hearings (including Preliminary Hearings, Final Hearings, reviews and appeals)	Private, unless the barrister requests a public hearing	No	Private, unless the barrister requests a public hearing (no proposal for change)

- Directions under interlocutory applications: Considering the Group's previous feedback, and having regard to the principle of transparency, we propose to draw a distinction between the first case management

	hearing and subsequent case management hearings or hearings of interlocutory applications (if any). Our proposal is for the first case management directions hearing to be held in private and for all subsequent hearings to be held in public by default, unless the Tribunal decides otherwise. We are in favour of the first case management hearing (if there is one) to be in private because it is likely to be principally associated with timetabling and setting directions for the substantive hearing. We believe the interests of the individual barrister in having the hearing in private outweigh the public interest in the first case management hearing being in public because: a. the hearing is principally administrative nature; and b. the hearing serves as the first opportunity for the parties to raise preliminary issues, such as anonymity and privacy, which it may be appropriate to air before matters are put into the public domain. However, given our proposal to publish charges at the latest once case management directions are set, we propose that any subsequent case management hearings or hearings to consider interlocutory applications be held in public, unless the Tribunal orders otherwise. To give effect to this, BTAS would also need to publish details of forthcoming hearings in a similar way as they currently do with the substantive hearing. We recognise that there will be limited and specific exceptions to the general principle that applications under rE127 should be dealt with in public. In particular, applications relating to the admissibility or disclosure of certain documents (e.g. legally privileged documents), anonymity or requests for a hearing to be held in private may justifiably need to be considered in private. The rationale being that public consideration of such applications could undermine the object of the application itself or risk causing significant prejudice to the parties involved. Therefore, while we would create regulations that put hearings in public as the default, it is important to afford the Tribunal discretion to order otherwise in cases where a private hearing may be appropriate or necessary. Moreover, to allow Tribunals to continue to consider issues efficiently and expediently, the regulations will also permit Tribunals (as they do now) to decide to consider applications on the papers either where the parties agree or where the Tribunal does not consider that a hearing is appropriate. We recognise that an unintended consequence of these changes could be that we see an increase in anonymity applications made by barristers (or applications not to publish at all). Our current data shows that privacy/anonymity applications are most often made by the BSB in relation to the anonymity of alleged victims/vulnerable witnesses. However, in one recent case an application for anonymity in the proceedings was made by respondent at the Directions stage. To mitigate this risk, we intend to establish a robust framework for considering anonymity applications, which clearly sets out the threshold for when such applications will be granted, ensuring consistency and to avoid the Tribunal from adopting an overly cautious (or inconsistent) approach. This would be supported by guidance outlining the principles and criteria used by the Tribunal, emphasising that anonymity will only be granted in exceptional circumstances, where it is necessary in the interests of fairness and justice to protect against unnecessary prejudice and harm. - The media and non-parties: A number of recent cases have given rise to questions about non-party access to documents and the media's right to make representations to BTAS; for example, in relation to applications for anonymity by barristers or for the substantive hearing to be heard in private. These cases give a flavour of the types of issues and challenges that can arise within the context of open justice. In considering other regulators approaches, we noted that the SDT has policies in place dealing with non-party access to documents and the automatic disclosure of certain categories of documents (e.g. skeleton

	arguments), to give effect to the open justice principle. They do not have an explicit power authorising the disclosure of documents relating to proceedings, rather their disclosure policies rely on the fact that 'nothing within the [Act]… prevents the implementation of the automatic disclosure policy' and that the policy 'gives real effect to the 'overriding objective' set out'. While we do not consider these issues warrant the creation of entirely new regulations at this stage, we believe an added benefit of our proposal to introduce the suite of new case management powers outlined above (and below) is that the new proposed powers should provide a framework within which the Tribunal can act, reacting flexibly and proactively as novel issues arise in a case. - In a new proposal, we are suggesting that the outcomes of Fitness to Practice proceedings are published.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The BSB Handbook. - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law. - Comparative research against other regulators.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.
- Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts.
- Could unconscious bias have a significant impact?
- Don't leave any box blank; if there will be no impact on a particular group then explain why.

Race	Please refer to the Equality Impact Assessment entitled "Overriding Objective and Power to Regulate Procedures" for a summary on the likelihood of those from specific ethnicities to be referred to a hearing. The increased likelihood of a report means that the impact of this proposal may disproportionately affect individuals with this protected

	characteristic.
Sex	Please refer to the Equality Impact Assessment entitled "Overriding Objective and Power to Regulate Procedures" for a summary on the likelihood of men to be referred to a hearing. The increased likelihood of a report means that the impact of this proposal may disproportionately affect individuals with this protected characteristic.
Disability	Please refer to the Equality Impact Assessment entitled "Overriding Objective and Power to Regulate Procedures" for a summary on the likelihood of disabled barristers to be referred to a hearing. The increased likelihood of a report means that the impact of this proposal may disproportionately affect individuals with this protected characteristic. This new proposal will have a significant impact on those with the protected characteristic of disability. As those with this protected characteristic are significantly more likely to be referred to an FtP panel, they will naturally be disproportionately affected. Whilst the rationale behind the conditions are not published, and it is likely that the outcomes would be published alongside a statement declaring that no disciplinary findings had occurred, there is still the risk to privacy. It would not be an excessive reach for someone to be able to cross examine the published outcomes, and reach the conclusion that conditions had been applied for health reasons. This would be a breach of privacy, possible contravening Article 8 of the Human Rights Act. It may also be indirect discrimination under the Equality Act 2010. As health conditions are likely to be a source of distress, publishing the outcomes of the proceedings is likely to cause significant negative impacts on those who have conditions imposed on them. Whilst there are some mitigations listed (e.g. safeguards for ongoing medical treatment) this may not be sufficient to outweigh the negative impacts listed above.
Age	Please refer to the Equality Impact Assessment entitled "Overriding Objective and Power to Regulate Procedures" for a summary on the likelihood of older barristers to be referred to a hearing. The increased likelihood of a report means that the impact of this proposal may disproportionately affect individuals with this protected characteristic.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion of belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.

Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on other identified groups.

How does the policy advance equality of opportunity?
By affording greater transparency to the process, the principles of open justice are adhered to, promoting equality of opportunity.

How does the policy promote good relations between different groups?
The policy does not explicitly set out to promote good relations between different groups.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	X
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	
Reason for decision: It is best to break this EIA into its four composite parts, and evaluate the decisions separately. 1. Publication: The matter at hand here is the balance of interests between the public (and the principles of open justice), and the individual barrister. Due regard has been given to protecting the reputational standing of the individuals, and has been reflected in the point at which publications would occur. This decision provides the barrister the opportunity to apply for anonymity, which is a good mitigation		

for this impact. However, we do not currently have access to information on how that application may be approved or denied. In order for this mitigation to be sufficient, the threshold for granting anonymity must be reasonable. This results in a need to adjust the policy and continue.

2. Confidentiality: We do not have any information to suggest that this would negatively impact on any protected characteristics, as it is primarily a clarification, and those third parties are likely to be trusted sources necessary for the execution of justice. This results in the ability to continue the policy with not impacts identified.

3. Directions under interlocutory applications: As in "Publication" significant thought has been placed on the balance between public and personal interest. It has also been acknowledged that appropriate and thorough guidance must be drafted. This results in the need to adjust the policy and continue,

4. The media and non-parties: Much of the potential impacts of this section are outlined in other EIAs, and as such we do not have any evidence to suspect that this proposal would cause any significant impact on any protected characteristic.

Following the results of this EIA, alongside feedback from our first consultation, the BSB has decided not to progress with the proposal involving the health process. However, the decision has been made to ensure that the public register will contain conditions on practice, even if they have come from the health process. We shall not disclose this fact however, meaning that the details of any disability will remain confidential.

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.

Action Required	Desired Outcome	Person Responsible	Timescale
Appropriate and thorough guidance on the threshold for granting anonymity must be devised. This threshold must be reasonable.	Those with the protected characteristics outlined above will not face disproportionate impacts.		
As the impacts on disability under the new proposal are significant, we would advise against pursuing this course of action. This proposal has now been halted.	People with the protected characteristic of disability of not face potentially unlawful discrimination. This proposal has now been halted.		

Equality Impact Assessment (EIA) - Costs

Date of Assessment	16/05/2025 Updated 06/03/2026 Updated 11/08/2026 following consultation feedback
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Costs
Aim/Purpose of Policy	We are proposing to amend rE248 of the Disciplinary Tribunals Regulations to clarify what costs can be sought by the BSB. The proposal will allow the BSB to seek to recover costs incurred by it after referral to the Tribunal stage – e.g. Counsel's fees, witness or expert costs and other expenses (e.g. for transcripts).

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE248 - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law. - External research into earning rates, both within the Bar and nationally.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.
- Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts.
- Could unconscious bias have a significant impact?
- Don't leave any box blank; if there will be no impact on a particular group then explain why.

Race	The primary matter in relation to the impact on barristers in this proposal is in the ability to bear the costs of that the BSB are attempting to recover. There is no one protected characteristic which may be at greater risk of increased adverse effects, only those whose protected characteristics are more likely to intersect with lower incomes. Data has been analysed to see which protected characteristics are earning a comparatively lower income than their comparators. White barristers are statistically likely to earn more than their global majority counterparts – 54% more than black barristers, and 32% more than Asian barristers (Race at the Bar: Three Years on, 2024).
Sex	Women statistically earn less at the bar than their male counterparts, this being true for both juniors and silks. For juniors, women earn 77% of their male counterpart's income, and for silks it is 67% (Bar Council, 2023).
Disability	Whilst we do not currently have access to income data by disability status, we do know that these is a 12.7% disability earning gap in the UK (ONS, 2023). Additionally, there is on average an additional spending need of £550 per month attributable to their disability (Disability at the Bar, 2019). With approximately 2.8% of barristers self identifying as disabled (BSB, 2018), the impact on this portion of the profession may be greater.
Age	As those at the beginning of their career at the Bar tend to be younger, they are more likely to be earning less than their older counterparts. This is acknowledged by the tiered approach to recovering costs, with those earlier in their career being charged a reduced fee (2-5 years PQE charged 50% less than those 10 years+ PQE).
Sexual Orientation	Whilst we do not currently have access to income data by sexual orientation, we do know that there is a 16% sexual orientation earning gap in the UK (YouGov, 2019).
Religion/Belief	Whilst we do not currently have access to income data by religion or belief, we do know that statistically some faiths are likely to have higher or lower earnings than others. For example, on average those who were Jewish earned on average £15.17 per hour, those who were Christian (any denomination) earned on average £11.64 per hour, those who were Muslim earned on average £8.50 per hour, and those with no religion earned on average £12.09 per hour (ONS, 2018).
Gender Reassignment	We were unable to find data that specifically focusses on the earnings of trans and non-binary people, and we do not have access to income data by gender reassignment status at the Bar. However, there is adequate reason to assume that a similar situation applies to those who are transgender to those who are lesbian, gay or bisexual. There is no reason to believe that their gender reassignment status does not contribute to earnings in the same way that sexual orientation does.
Pregnancy/ Maternity	Those who are pregnant or who are not working due to maternity will naturally be earning less than those who are working, and will also have additional costs associated with childcare, and may have additional costs related to health care. This is especially true at the self employed bar, where access to maternity pay that an individual at the employed bar may be entitled would not be granted.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	As stated above, the primary driver of potential adverse impact is lower socio-economic status, and more specifically, lower earnings altogether. The impacts identified above are compounding factors that may (intersectionally) increase the likelihood of lower earnings by proxy. Those who do have lower earnings, for whatever reason, are likely to experience an adverse impact, as the charge is a flat rate based

	on number of years PQE, as opposed to a percentage of earnings. For those with 2-5 years PQE, the following fee is quoted: “Initial instruction fee of £300, brief fee of £1,000 and refresher fee of £500 per day after the first day of the final hearing.” And furthermore; “It should be noted that often the costs incurred are higher, due to the need for additional advice through the tribunal process and Counsel’s attendance at interlocutory hearings. Generally, additional advice is paid at an hourly rate of £70, £110 or £140 for each respective band. “ For any one hearing, a barrister may be required to pay thousands of pounds once the hearing ends. This is a significant cost to anyone, but as a percentage of earnings it will naturally have a greater realised impact on those whose earnings are lower. There is the additional factor here that a hearing may result in a sanction that requires a barrister to cease practice for any length of time. Without future earnings, this fee becomes even more onerous.

How does the policy advance equality of opportunity?
A tiered approach to the amount charged to barristers based on number of years PQE ensures more equitable outcomes. It acknowledges that those later in their careers may be more likely to be able to bear the cost of the fee.

How does the policy promote good relations between different groups?
This policy will be applied equally across all groups.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark ‘X’ next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the	X

continue	policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	

Reason for decision:

Whilst the impacts of this policy have the potential to impact on a broad number of protected characteristics, there are some mitigations in place to ensure that the tangible consequences on any of these characteristics are limited. In particular, a tiered approach to charging barristers based on the number of years PQE will ensure those early in their career are not disproportionately disadvantaged. Overall earnings for barristers remains significantly higher than the UK average wage - £37,430. Though there are significant differences between areas of practice (e.g. criminal and chancery), this is not necessarily a matter for an equality impact assessment. However, the matter remains as to whether or not this mitigation is sufficient to counter the impacts. Further consultation and research should be considered here, and a discussion with the ER working group should be conducted before a potential action plan is agreed upon.

Since the completion of the first analysis the ER team have provided a series of clarifications. First, that tribunals will consider an individual's circumstances "as they think fit" (as stated in rE244). This sufficiently mitigates many of the original concerns relating to barristers on lower earnings being unable to afford costs. Second, that BTAS may appoint a costs expert to assist in this. Responses to the consultation did not highlight any additional equalities impacts.

One respondent's response to the second consultation raised a concern that PQE is not necessarily a good indicator of accumulated wealth. In their view, individuals on the lower end of PQE may have accumulated more wealth in a different career and, therefore, this proposal may still potentially have discriminatory consequences for certain protected characteristics. Whilst we accept that PQE may not be the most accurate indicator, we suggest this approach is not inherently discriminatory. In the example described, a barrister who is only, for sake of argument, 2 years PQE, but previously had a high income career, is not put at a disadvantage. There may be an argument about equitable enforcement, as the BSB may not be recovering as many costs as they may otherwise have done, however this is not a matter to be considered from an equalities angle. However, the enforcement regulations team may still wish to consider an income banding scale at their discretion.

Another response to the second consultation raises concerns over an individual's circumstances being ignored due to the wording of "as they think fit". It should be noted that, under our proposed approach, an individual's circumstances would not be considered, only that they may be considered. It is still a matter for the Disciplinary Tribunal to act as they think fit. This safeguard is intended to ensure parity across all groups, and to ensure that those with lower incomes are not disproportionately acted upon. This discretionary power allows us to do this.

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.

Action Required	Desired Outcome	Person Responsible	Timescale

Equality Impact Assessment (EIA) – Direct Referral Powers

Date of Assessment	08/05/2025 Updated 14/02/2026
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Direct Referral Powers
Aim/Purpose of Policy	The proposal is to remove the power given to interim panels and appeal panels to refer cases direct to a Disciplinary Tribunal where such a referral has not already been made (see rE278.6 and rE287.5).

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE278.6 and rE287.5. - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.
- Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts.
- Could unconscious bias have a significant impact?
- Don't leave any box blank; if there will be no impact on a particular group then explain why.

Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on disability.
Age	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on age.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other group.

How does the policy advance equality of opportunity?
This policy ensures that a power which would, if used, produce adverse impacts is removed.

How does the policy promote good relations between different groups?

This policy is applied equally across all groups, and all groups being protected from this power is a positive impact.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	X
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	
Reason for decision: This amendment seeks to remove a power that if left in place and utilised may cause adverse impacts on those with and without protected characteristics. As it stands, this power has not been used within the last decade and therefore this is a change in regulation that merely reflects ongoing practice. The consultation responses did not raise any additional concerns in relation to direct referral powers. The recommendations made within this EIA remain unchanged.		

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale
N/A	N/A	N/A	N/A

Equality Impact Assessment - Duty to Convene and Fix Hearing Date

Date of Assessment	23/04/2025 Updated 26/03/26
Assessor Name & Job Title	Emma Underwood
Name of Policy/Function to be Assessed	Duty to Convene and Fix Hearing Date
Aim/Purpose of Policy	The current FtPRs do not explicitly impose a duty on the President of COIC to convene a panel or fix a hearing date, once a matter has been referred by the BSB. We are proposing to introduce this duty, which will codify existing practice. Further, there is no explicit requirement under the FtPRs for the BSB to be notified of the hearing date. We are proposing to introduce a requirement that both parties should be notified of the hearing date.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE309 (preliminary), rE318 (final hearing), rE324 to rE326 (review hearing), and rE328 to rE329 (appeal hearing). - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).	
Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.

Disability	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on disability.
Age	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on age.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other groups.

How does the policy advance equality of opportunity?
This policy does not specifically address individuals or groups, and therefore is not setting out to advance equality of opportunity.

How does the policy promote good relations between different groups?
This policy does not specifically address individuals or groups, and therefore is not setting out to promote good relations between different groups.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	X
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	
Reason for decision: The regulatory change only seeks to codify an existing practice. Therefore it is merely a change within the written regulation, and will have little to no bearing on day to day practice, as the written proposals represent everyday practice that is currently ongoing. The consultation responses raised no additional concerns in relation to the duty to convene the panel and fix hearing dates. The recommendations of this EIA remain in place.		

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale
N/A	N/A	N/A	N/A

Equality Impact Assessment (EIA) – Service by Email

Date of Assessment	15/05/2025 Updated 01/03/2026 Further updated 06/08/2026, in light of consultation feedback
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice
Name of Policy/Function to be Assessed	Service by Email
Aim/Purpose of Policy	The proposal is to amend the regulations on service so that email may be the primary method of valid service without requiring the barrister's prior agreement to it or that service by email may only be relied on absent agreement where the other methods of service are not possible. Valid service will still include the other mechanisms for service provided by the current regulations where this is more appropriate – e.g. where we do not have a known email address (as may be the case in relation to unregistered barristers). In relation to the date of deemed service where service is effected by e-mail, we propose to amend the regulations so that service by email is deemed to be effective, if sent within working hours, on the day the email is sent, or otherwise if sent after working hours, the next working day.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE248 - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010. - Research into digital exclusion, including the House of Lords Digital Exclusion in the UK Report (2023).

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4). Consider:

• Will people from all groups be able to access the service; will there be any barriers for certain groups? • Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination? • Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact. • Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts. • Could unconscious bias have a significant impact? • Don't leave any box blank; if there will be no impact on a particular group then explain why.	
Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	Service by email may in fact be have a positive impact on those with the protected characteristic of disability. Digital communication allows for a broader variety in accessibility tools and software (screen readers, contrast, zoom functions, etc.), and with email as a default, this would ease the process of being able to use those tools, providing for a positive impact.
Age	Older individuals are statistically more likely to experience digital exclusion, with 29% of people over the age of 75 having no access to the internet whatsoever. This figure is at 9% for those aged 65-74 (AgeUK, 2024). By defaulting to email communication, older individuals are significantly more likely to be impacted. However, given that this default applies only when a barrister's email address is known to the BSB, it will already be established that they have internet access. The crux of this matter is whether an individual will be at a tangible disadvantage if the methods of communication that are not electronic degrade in quality – i.e. if it takes longer to post a letter, for instance, as that is no longer the preferred method of communication for the BSB. There is no knowledge to date as to whether this may occur, however the risk must be raised and acknowledged so as to actively avoid it occurring.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	There are a number of faiths and belief systems that restrict or prohibit the usage of certain technologies. Those who follow these are less likely to have access to the internet or to use an email address, and therefore face the same risks as above.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.

Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	Digital exclusion is also prevalent amongst those from a lower socio economic background, and for those with lower income. The proposal explicitly mentions unregistered barristers as being less likely to have an email address on file. Those who are unregistered may be earlier in their careers, and therefore be more likely to fit into this category. The risks and adverse impacts are the same as outlined above.

How does the policy advance equality of opportunity?
This policy will provide a greater ease of access to those needing to utilise digital accessibility tools such as screen readers and text to speech software.

How does the policy promote good relations between different groups?
This policy will be applied equally across all groups.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	X
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	

Reason for decision:

Further investigation is required into the possible detrimental impacts on the other communication services that the BSB currently relies upon. The BSB must ensure parity in efficiency, timeliness and effectiveness of these other services so as not to disadvantage the protected characteristics outlined above. Consultation responses primarily focussed on data protection matters. Naturally however, there are potential equality impacts when it comes to data breaches. For instance, if an email is monitored by someone other than the barrister, and makes explicit reference to a protected characteristic that may otherwise have remained unknown (e.g. sexual orientation, gender reassignment, religion or belief, pregnancy or maternity) this is a potential negative impact, alongside a breach of GDPR rules, specifically when considering these fall under special category data.

I do however find that these risks are well mitigated. Barristers will be able to provide an email address of their choosing, which may be a personal address as opposed to one which may be monitored by chambers or a place of employment. As for other concerns raised within this EIA, mitigations have been provided. There will be flexibility allowed, and a barrister may opt to use service by post instead. If a barrister does not respond via email, the BSB will contact them by post, meaning that the service will remain operational.

In the second consultation, a respondent was concerned that "barristers' professional email addresses are likely to be accessible to chambers' staff, who would potentially be able to see any confidential information sent by email." This should be considered by the enforcement regulations team in part as a data protection issue.

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.

Action Required	Desired Outcome	Person Responsible	Timescale
Guarantees must be put in place to ensure that alternative, non-electronic forms of communication are not de-prioritised, and operate with the same effectiveness that they currently do.	Those who do not have an email address or access to the internet will not be adversely impacted.		

Equality Impact Assessment (EIA) – Extending the Powers of Review Panels

Date of Assessment	06/05/2025 Updated 27/3/2026
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Extending the Powers of Review Panels
Aim/Purpose of Policy	We are proposing to extend the powers of review panels to be able to determine applications for a review of interim orders in circumstances where the hearing before the Disciplinary Tribunal has commenced, until such time as the Tribunal makes findings on the charges of professional misconduct.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE282 & 283 - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.
- Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts.
- Could unconscious bias have a significant impact?
- Don't leave any box blank; if there will be no impact on a particular group then explain why.

Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on disability.
Age	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on age.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other groups.

How does the policy advance equality of opportunity?
The proposal will be applied equally across all groupings and characteristics.

How does the policy promote good relations between different groups?
The proposal will be applied equally across all groupings and characteristics.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	X
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	
Reason for decision: This proposal merely seeks to readdress a gap in enforcement. It does not introduce any powers that are not present in other areas, and as such no protected characteristic would be impacted disproportionately. The consultation responses did not raise any additional equalities concerns. The recommendations in this EIA remain unchanged.		

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale
N/A	N/A	N/A	N/A

Equality Impact Assessment (EIA) – Grounds for referral of an interim order

Date of Assessment	28/04/2025 Updated 10/02/2026
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Grounds for Referral of an Interim Order
Aim/Purpose of Policy	1. The current grounds for referral to an Interim Panel, which are set out in rE268, should be simplified and reduced to one ground of referral which is that a referral is necessary to protect the public or is otherwise in the public interest (i.e. retain only the current rE268.1.f. and remove the second limb that the referral is appropriate in all the circumstances having regard to the regulatory objectives). 2. The grounds on which an interim panel may impose an interim order (see rE278.2) should also be changed to align with revised ground of referral.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE268 (.1 and .2) - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law. - Comparative research on other regulators.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.

• Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts. • Could unconscious bias have a significant impact? • Don't leave any box blank; if there will be no impact on a particular group then explain why.	
Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on disability.
Age	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on age.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other group.

How does the policy advance equality of opportunity?

By reducing the number of grounds for referral, the process is made simpler and more straightforward for anybody to understand. As it will be applied equally to all, regardless of protected characteristic, it is not disadvantageous to anyone in particular.

How does the policy promote good relations between different groups?
This policy does not explicitly set out to promote good relations between different groups.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	X
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	
Reason for decision: The grounds for referral have simply been condensed into a single rationale, and all former grounds have been retained, but are covered by the single rationale. The consultation responses have led to this proposal being altered somewhat. A decision has been made to split out some of the grounds, and to recognise that the protection of the public and otherwise in the public interest can be two separate and distinct grounds. I have no reason to believe that this would amount to any additional changes in my original analysis. It is worth noting however that Baroness Harman's report recommends the use of interim orders in cases of serious sexual misconduct. We believe this power is already available to us as part of existing regulatory powers.		

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale
N/A	N/A	N/A	N/A

Equality Impact Assessment (EIA) – Length of Orders

Date of Assessment	28/04/2025 Updated 26/03/2026
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Length of Orders
Aim/Purpose of Policy	rE320.1 currently allows a FtP panel (the 'panel') to impose a restriction (which is defined as a suspension or disqualification) for an indefinite period or for such period as the panel may specify but which shall not exceed six months. The BSB proposes to remove the six-month time limit so that panels have the power to impose a restriction for such period as they consider appropriate in all the circumstances (including in light of the medical evidence) which may, in exceptional cases, be indefinite.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulation set out within the handbook; rE320.1 - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.
- Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts.
- Could unconscious bias have a significant impact?
- Don't leave any box blank; if there will be no impact on a particular group then explain why.

Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	As this policy covers the Fitness to Practice Regime, those who are disabled are significantly more likely to be impacted. Whilst a longer restriction is not necessarily an adverse impact, there is a high likelihood that it could be viewed as one, and therefore this places those with the protected characteristic of disability in a position where they are more likely to be impacted by these decisions. It has been noted that Barristers who are under restrictions retain the right to appeal, which does offset a proportion of these impacts, however the additional burden of having to appeal is nonetheless an adverse impact.
Age	As older individuals are more likely to experience health concerns, they may be more likely to face the adverse impacts outlined under the *Disability* section.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity. This is under the proviso that it would be highly unlikely for a panel to impose an extended restriction on an individual in relation to this protected characteristic.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	Whilst socio-economic status is not a protected characteristic, it is worth raising in this section. Those from a lower socio-economic background and those who are earlier in their career, without an established practice are more likely to be negatively impacted by restrictions. If they are unable to practice, and do not have the ability to draw funds from elsewhere, this is a substantial adverse effect.

How does the policy advance equality of opportunity?

The proposal will be applied equally across all groupings and characteristics.

How does the policy promote good relations between different groups?
The proposal will be applied equally across all groupings and characteristics.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	X
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	
Reason for decision: The proposal is sensible, yet has the potential for significant adverse impacts. Appropriate safeguards must be implemented at drafting stage in order to offset these. The consultation did not raise any additional concerns surrounding the length of orders. It was acknowledged that some medical conditions may require longer than six months to treat or monitor. The recommendations of this EIA remain in place.		

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale

At drafting stage, appropriate consideration must be given to the conditions by which the length of an order is determined. The provision of an indefinite order must be considered with extreme caution, and adequate guidance must be provided on when such a restriction is appropriate.	A stringent set of guidelines that ensures restrictions are applied fairly and rationaly.		

Equality Impact Assessment (EIA) – Listing Process

Date of Assessment	08/05/2025 Updated 06/02/2026 Further updated on 17/09/2026, in light of consultation feedback
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Listing Process
Aim/Purpose of Policy	The complex provisions relating to the listing of Interim Panel, review and appeal hearings should be amended to streamline and simplify them by retaining the requirement for the hearing to be within a specified number of days of the referral and for reasonable notice of the hearing to be given but otherwise provide that the hearing date can be listed without reference to the availability of the barrister.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE274 (referral to a panel) (specifically .1 - .3), rE280 (review hearing listing), and re285 (appeal hearing listing) - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law. - Comparative research on other regulators.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4). Consider: • Will people from all groups be able to access the service; will there be any barriers for certain groups? • Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination? • Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact. • Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts.

• Could unconscious bias have a significant impact? • Don't leave any box blank; if there will be no impact on a particular group then explain why.	
Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	The ramifications of this change are significant for those with the protected characteristic of disability. Clashes between hearings and medical appointments, long term illness, or other responsibility would leave disabled people in a position where they must choose between their health, and the future of their career. Not being present at a hearing may be considered a disadvantage, meaning that this policy creates an adverse impact for individuals with the protected characteristic of disability.
Age	An offered mitigation for this policy is the ability to attend online, however this may not be suitable for parts of the population. Older individuals are statistically more likely to experience digital exclusion, and therefore may be less likely to be able to use online alternatives to in person hearings.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	If a barrister is unable to submit an objection for a hearing date, it may be scheduled on a day of significance to that person's religion (Diwali, Sabbath, etc.) This will make it so that the barrister is unable to attend, and place them at a comparative disadvantage.
Gender Reassignment	If a barrister is unable to submit an objection for a hearing date, it may be scheduled during a person's treatment for gender dysphoria, or the recovery period. This includes appointments at Gender Dysphoria clinics, for which the wait times are exceptionally long and the cancellation of appointments can lead to consequences including discharge.
Pregnancy/ Maternity	If a barrister is unable to submit an objection for a hearing date, it may be scheduled then this may clash with childcare responsibilities, or medical appointments, causing them significant disadvantage.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other identified group.

How does the policy advance equality of opportunity?

This policy does not currently set out to advance equality of opportunity.

How does the policy promote good relations between different groups?
This policy does not currently promote good relations between different groups.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	X
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	

Reason for decision:

The alteration to this policy and the removal of the opportunity to raise an objection could lead to significant adverse impact on the protected characteristics outlined above. The policy should only continue if due consideration is given to the recommendations outlined below.

The consultation responses did not raise any additional concerns in relation to the listing process. One respondent raised concerns regarding a lack of flexibility in its response, which have been echoed in the original EIA above. However, we believe this to be appropriately mitigated, as BTAS possesses the appropriate powers required to amend a hearing date provided the barrister gives appropriate rationale. The recommendations made within this EIA remain unchanged.

In their response to the second consultation, one respondent raised concerns over there not being adequate provisions for reasonable adjustments within the policy. This proposal has in fact been accepted and will appear in the final draft.

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale
Consideration should be given to adding an additional element where it becomes permissible for a barrister to object to the date of a hearing as part of “reasonable adjustments”, or “under exceptional circumstances related to the Equality Act 2010”.	Those who would be impacted may still be impacted, but have the opportunity to voice an objection. This will mitigate the majority of the adverse impacts.		

Equality Impact Assessment (EIA) – Overriding Objective and Power to Regulate Procedures

Date of Assessment	22/05/2025 Updated 03/02/2025
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Overriding Objective and Power to Regulate Procedures
Aim/Purpose of Policy	One of the key messages in the report of the independent Enforcement Review was the need for more active case management to ensure that cases are disposed of justly and expediently.15 To reflect this important requirement in the disciplinary process, we are proposing to introduce an overriding objective into the DTRs. While the current Regulations require that the rules of natural justice apply to proceedings of a Disciplinary Tribunal (rE165), we believe the introduction of an overriding objective would reinforce the importance of ensuring that cases are handled fairly, efficiently and expeditiously. The proposed objective would be to enable the DT to deal with cases justly and at proportionate cost (this will mean, so far as is practicable, ensuring cases are dealt with efficiently and expeditiously and in ways which are proportionate to the nature, importance and complexity of the issues). Further, we propose to introduce additional regulations which will require the Tribunal to give effect to the overriding objective when exercising any powers under the Regulations and/or when interpreting any of the Regulations; similar to those at Rule 4 of the Solicitors (Disciplinary Proceedings) Rules 2019. Secondly, we are exploring the possible introduction of an additional regulation that would give the DT the power to determine its own procedure in individual cases, in accordance with and subject to the Regulations and in a way which gives effect to the overriding objective.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The BSB Handbook. - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law.

- Responses from the BSB's 2025 consultation.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4). Consider: • Will people from all groups be able to access the service; will there be any barriers for certain groups? • Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination? • Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact. • Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts. • Could unconscious bias have a significant impact? • Don't leave any box blank; if there will be no impact on a particular group then explain why.	
Race	For reports referred to disciplinary action, results suggest that gender and ethnicity were not a significant predictor of whether reports were referred to disciplinary tribunal, or for whether reports were upheld at the tribunal stage (BSB, 2025). However, Male barristers appear to be more likely to be subject to a report compared to female barristers (around 1.4 times more likely). When aggregating ethnicity, barristers from minority ethnic backgrounds appear to be more likely to be subject to a report compared to White barristers. When further disaggregating by ethnicity, the major differences appear to be for those from Asian/Asian British and Black/ Black British backgrounds compared to White barristers, with those from such backgrounds more likely to be subject to a report. These results are relevant to the proposal at hand, as even if the race of a barrister is not a contributing factor towards referral to a DT, it is a contributing factor towards a report to the enforcement or supervision teams, which in turn creates a disproportionality.
Sex	For reports referred to disciplinary action, results suggest that gender and ethnicity were not a significant predictor of whether reports were referred to disciplinary tribunal, or for whether reports were upheld at the tribunal stage (BSB, 2025). However, Male barristers appear to be more likely to be subject to a report compared to female barristers (around 1.4 times more likely). When aggregating ethnicity, barristers from minority ethnic backgrounds appear to be more likely to be subject to a report compared to White barristers. When further disaggregating by ethnicity, the major differences appear to be for those from Asian/Asian British and Black/ Black British backgrounds compared to White barristers, with those from such backgrounds more likely to be subject to a report. These results are relevant to the proposal at hand, as even if the sex of a barrister is not a contributing factor towards referral to a DT, it is a contributing factor towards a report to the enforcement or supervision teams, which in turn creates a disproportionality.
Disability	Disabled barristers were proportionally more like to be subject to a report than their non-disabled counterparts. Whilst it is not necessarily true that this by default means that a disabled barrister is more likely to be referred to a DT, the creation of that environment may result in a disproportionate number of disabled barristers being referred.

Age	When controlling for other factors, an increase in the number of years of experience a barrister had was found to be related to an increase in the likelihood of a report being forwarded to Enforcement or Supervision. For every year of experience, the associated likelihood increased by around 2 per cent. In this example, years of experience has been used as a substitute for age.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on other identified groups.

How does the policy advance equality of opportunity?
The proposal allows for greater powers for the DT to run their own procedure. It may be that this flexibility is used to advance equality of opportunity.

How does the policy promote good relations between different groups?
The proposal allows for greater powers for the DT to run their own procedure. It may be that this flexibility is used to promote good relations between different groups.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark ‘X’ next to one option and give a reason for your decision)

a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	X
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	

Reason for decision:

As the actual nature of the proposal is still partially unknown, it is difficult to determine the outcomes. However, given the fact that we know that some demographics are more likely to be subject of a report (and therefore those demographics may be disproportionately represented at DT stage), they are likely to be impacted by any change DT makes to its procedures. To be clear, these impacts may be positive or adverse, depending on the how this power is applied. The procedures must still follow regulations and guidance, however it would be sensible to develop additional guidance for when a DT should alter its procedures.

The consultation responses did not raise any additional concerns in relation to overriding objectives or the power to regulate procedures. One respondent, in their response, gives an example for some potential wording relating to politeness and respect, which is a helpful addition and should be heeded. The recommendations made within this EIA remain unchanged.

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.

Action Required	Desired Outcome	Person Responsible	Timescale
Additional guidance should be developed to support DTs in the way they create new procedures, so that there is a greater consistency of approach.	We would maintain the flexibility afforded by the new provisions, whilst also ensuring a consistency of fairness.		

Equality Impact Assessment (EIA) – Panel Composition

Date of Assessment	09/02/2026 Update 21/04/2026
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Panel Composition (5v3)
Aim/Purpose of Policy	The BSB intends to reduce the number of individuals present on disciplinary tribunal panels and enforcement Independent Decision Making Body from five members to three. Currently, panels can compose of five or three members depending on the likely sanction. We intend for this proposal to also apply to enforcement Independent Decision-Making Body panels such that IDB panels will also be composed of three members. We now intend only to proceed with this proposal in relation to IDB panels, not Disciplinary Tribunals.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE46-49, rE50(2), Schedule 1 (Composition of IDP's), DTRs, rE139-143, rE149, rE210-216 (referral 3to 5 DT), rE202A. - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law. - The 2025 consultation on the proposals laid out by EEE and ER. - Selected BTAS Annual Reports from 2014-2024. - The Medical Practitioners Tribunal Service Report to Parliament 2024.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4). Consider: • Will people from all groups be able to access the service; will there be any barriers for certain groups?

• Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination? • Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact. • Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts. • Could unconscious bias have a significant impact? • Don't leave any box blank; if there will be no impact on a particular group then explain why.	
Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact specifically on race. Further considerations on this matter are provided below.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact specifically on sex. Further considerations on this matter are provided below.
Disability	We do not have any evidence which suggests this policy will have an adverse, or a positive impact specifically on disability. Further considerations on this matter are provided below.
Age	We do not have any evidence which suggests this policy will have an adverse, or a positive impact specifically on age. Further considerations on this matter are provided below.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact specifically on sexual orientation. Further considerations on this matter are provided below.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact specifically on religion or belief. Further considerations on this matter are provided below.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment. Further considerations on this matter are provided below.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact specifically on pregnancy or maternity. Further considerations on this matter are provided below.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact specifically on marriage or civil partnership. Further considerations on this matter are provided below.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other group. Further considerations on this matter are provided below.

How does the policy advance equality of opportunity?

This policy does not specifically set out to advance equality of opportunity.

How does the policy promote good relations between different groups?
Barristers from more marginalised communities may feel that justice is being handled more appropriately if panels are representative and diverse.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	X
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	

Reason for decision:

To begin, I will outline the initial findings detailed in the original Equality Impact Assessment regarding the composition of panels.

"The primary cause for concern in relation to this proposal is the increased possibility of unconscious bias due to the reduction in panel size. With a larger decision making body, the impact of any one person's unconscious bias can be diluted and checked by other members (though there is no guarantee of this, and in fact the likelihood of bias may be increased if the whole panel share the same bias). This has the potential to negatively impact on those with the protected characteristics as outlined above. Due to BSB research we know that whilst ethnicity is not a significant predictor for sanctions being received, sex is, with men more likely to be suspended, and less likely to be fined than women. However, we do not have data comparing the impact of unconscious bias, or likelihood of receiving sanctions between a three person or a five person panel. Given the prevalence of three person panels across other regulators, and the additional benefits, we believe that the change is proportional and unlikely to significantly adversely impact on protected characteristics. However, due regard should be given to any unconscious bias training offered to panel

members."

As has been rightfully pointed out, further consideration should be given than just the above. Consultation responses have pointed out potential impacts on diversity, and have lead to significant further analysis on this proposal. It is only right therefore that the same attention be given to matters of equality, hence this extended EIA on the difference between five and three person panels. It is true that a decrease in diversity could impact the public interest in a well-regulated profession. In my original analysis I applied a test in relation to how this change may impact on barristers, but neglected to apply a similar test examining the impacts both on the wider public, and on the perception of the Bar as a well regulated profession, and therefore I seek to apply that test now.

Whilst BTAS does not report on individual panel compositions, it does provide salient data relating to the demographic makeup of the pool. Figure (1) displays the information provided regarding member sex and age, and Figure (2) regarding member ethnicity. Both sex and ethnicity are roughly in line with data from the 2021 census from the Office of National Statistics, meaning they are broadly representative of the population in England and Wales. Age composition is slightly different however, with a significant skew towards the 45-59 demographic, with no representation in the 18-24 demographic and very little within the 60+ demographic. The reasons for this are fairly evident however, I would argue, given that the role requires a degree of experience, which may be lacking in the former group, and the latter group consists in significant part of individuals who may well have retired. I would conclude therefore that the general BTAS pool is diverse enough in at least two categories to be reflective of contemporary demographics, at least for those monitored. We do not currently collect or report on any other protected characteristic. I would however remark on the lack of diversity within the KC grouping, which is only 25% female, 25% not within the age range of 45-59, and has zero representation in ethnicity from those beyond a white ethnic background.

	Male	Female
Lay	6	9
Barrister	13	14
Silk	6	2
	25	**25**
	50%	**50%**

	Age			
	18-24	**25-44**	**45-59**	**60 and over**
Lay	0	1	10	4
Barrister	0	17	10	0
Silk	0	1	6	1
	0	**19**	**26**	**5**
	0%	**37%**	**51%**	**12%**

Figure (1)

	Ethnicity					
	White	Mixed	Asian or Asian British	Black or Black British	Chinese or Chinese British	Other
Lay	14	0	1	0	0	0
Barrister	15	1	4	2	0	5
Silk	8	0	0	0	0	0
	37	**1**	**5**	**2**	**0**	**5**
	75%	**2%**	**10%**	**4%**	**0%**	**10%**

Figure (2)

With this conclusion reached, the question now remains as to whether a) A reduction in panel members significantly reduces diversity and b) If said reduction in diversity leads to poorer outcomes and a reduction in public confidence. Let us begin with assertion A. I find it reasonably evident that there is a likelihood that the removal of two panel members may reduce diversity on any given panel, though it is not a certainty. Whilst BTAS does not enforce diversity quotas or any similar mechanisms on their panels, it is hopefully an inevitable consequence of a diverse pool that the panel itself will be diverse. A smaller panel allows for fewer opportunities for multiple identities and therefore will likely amount to a reduction in diversity. However, there are additional elements which must first be considered before reaching this ultimate conclusion.

The justification for improving diversity on panels is two-fold. The first, is that it is seemingly important for public professional perception – that bodies who are deciding the fates of individuals should reflect society as a whole. The second justification is that improved diversity may lead to better outcomes, and less opportunity for unconscious bias. However, the evidence base for this is not readily available, nor has any comparative research been conducted on five person vs three person panels. We can instead look to other regulators to ascertain how our panels compare. The Medical Practitioners Tribunal Service have published a particularly helpful series of reports, including their Report to Parliament 2024, which details the diversity data of their own tribunal pool. They state the following:

"*As of 31 December 2024, 52.5% of our 280 tribunal members were women, and 23.2% were from an ethnic minority….We empanel each three-person tribunal according to the availability of tribunal members. We monitor how often this produces a diverse tribunal, but do not empanel based on protected characteristics. In 2024, our tribunals had ethnicity diversity on 55.1% of hearings and sex diversity on 76.9% of hearings. 40.9% of tribunals had both ethnicity and sex diversity. A single sex tribunal with no ethnic minority members sat on 8.9% of hearings."*

It is important to note that MPTS use panels consisting of three people, thereby providing something of a projection of what BTAS may expect should they adopt a similar position. Perhaps the final line of the above paragraph is most telling, that only 8.9% of panels featured no diversity in ethnicity or sex whatsoever, and whilst it is arguable that any figure above 0% is too high, it remains a relatively low one. Unfortunately BTAS do not publish a comparable figure, therefore I am unable to ascertain whether the difference between these two numbers is marked or not. It stands to reason, however, that BTAS would see comparable figures, given that their pool composition is also very similar (Figure 3). It also follows that the primary cause for a presence or lack of diversity on any given panel is not necessarily the number of panel members, but rather the diversity of the pool of available members.

(Figure 3)

I would turn now to the topic of unconscious bias, and its potential remedies. My original EIA advocated for an exploration of the provision of unconscious bias training for members of the pool. There are 50 members identified by BTAS, a very manageable number, and I now re-advocate for this remedy. If the primary concern is that panel members will err in their judgement due to bias, then we may significantly reduce that risk in a far more effective manner than by simply attempting to outnumber those with biases. Why not reduce or remove bias at its source? Training of this manner is straightforward and cost effective, and has already been delivered to the CEB as part of a separate project.

I would also seek to return to arguments I have made elsewhere, especially where it relates to efficiency. This is provided of course, that a reduction in panel members would indeed improve efficiency, which the Enforcement Regulation team deems to be the case. If cases can be processed, heard, and decided upon with greater expediency, this has a whole range of positive impacts for the profession as a whole, but also on specific characteristics. What is undoubtedly a stressful process for all parties involved is expedited, and is therefore concluded faster, without subjecting any party to a long, drawn-out process. This must be a central aim, and indeed makes up a large part of the EEE project. If it is true therefore that this process would improve efficiency, the question then becomes one of trade-offs – is it proportionate to improve efficiency by potentially lowering diversity? It is certainly not unlawful, and is unlikely to amount to discrimination under the Equality Act 2010.

My previous recommendation therefore still stands. That in my view, this is a proportionate measure, in line with other regulators, lawful, and unlikely to amount to discrimination. To summarise my arguments, whilst I do believe that a reduction in panel members could negatively impact on the diversity of panels, more important is the diversity of the pool itself, and minimizing the amount of bias present in pool members. I have provided two proposals for a remedy, which I would hope the BSB and BTAS employ in order to further minimise negative impacts.

As a point of clarification, the BSB now only intends to proceed with this policy where it related to IDB panels, not DT panels. As such, the primary recommendations remain the same, but disregard explicit references to IDB panels.

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.

Action Required	Desired Outcome	Person Responsible	Timescale
Due regard should be given to whether or not it is practical to provide unconscious bias training (or similar) to panel members. Policies regarding discrimination should be affirmed at every level.	The additional risk of bias can be mitigated.		

Data should be collected and published not just on the diversity of pools, but of the panels themselves. I would recommend we follow the approach of the MPTS.	This data will allow us to clearly see whether the diversity of our panels is greater or lesser than comparable organisations.		

Equality Impact Assessment (EIA) – Panel Secretary

Date of Assessment	20/05/2025
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Panel Secretary
Aim/Purpose of Policy	The proposal is to remove the current requirement relating to the appointment of a clerk in each hearing. We propose to introduce a new requirement for disciplinary tribunal panels to be assisted by a panel secretary, who will be an employee of BTAS. In addition, we propose to remove any requirements for a practising barrister to act as the clerk and the panel secretary would instead be a member of the BTAS executive. Finally, the proposal is to expand the responsibilities of the role (though much of this may be possible to achieve outside of the regulations) to include the initial drafting of decisions and providing additional support to panels.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE136-138 - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law. - Internal data analysis on the number of cases where BTAS staff have needed to replace a junior barrister as panel secretary due to unavailability.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4). Consider: • Will people from all groups be able to access the service; will there be any barriers for certain groups? • Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?

• Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact. • Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts. • Could unconscious bias have a significant impact? • Don't leave any box blank; if there will be no impact on a particular group then explain why.	
Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on disability.
Age	The only impact we have identified relates to those at the beginning of their career, who may have been utilising this role to supplement their practice. The SRG paper states that junior barristers often move on to "more lucrative work" – it may be the case that these individuals were gaining important skills before moving on to different work. Those who are younger are more likely to be earlier in their career and therefore more reliant on this type of work. However, given the number of occasions BTAS has needed to step in, this impact is minimal.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnerships.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other group.

How does the policy advance equality of opportunity?
This policy does not explicitly set out to advance equality of opportunity.

How does the policy promote good relations between different groups?
This policy does not explicitly set out to promote good relations between different groups.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	X
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	
Reason for decision: As stated above, the impacts on age are likely to be exceptionally minimal. Given the number of incidents where a member of BTAS staff has needed to operate as a clerk as opposed to a barrister (72% of all hearings in 2024), and with that number increasing significantly, it is likely that this change would impact on a very small number of junior barristers. The consultation responses did not raise any additional concerns in relation to the panel secretary. The recommendations made within this EIA remain unchanged.		

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and

opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale
N/A	N/A	N/A	N/A

Equality Impact Assessment (EIA) – Power to Accept Undertakings

Date of Assessment	24/04/2025 Updated 25/02
Assessor Name & Job Title	Emma Underwood
Name of Policy/Function to be Assessed	Power to Accept Undertakings
Aim/Purpose of Policy	We propose to introduce a new power for the BSB (acting through the Commissioner) to accept undertakings in lieu of a referral to a panel. The proposed new power will allow the BSB to accept undertakings, where doing so is appropriate and in the public interest, before the formal process is commenced. By introducing these new powers, the BSB will (in appropriate cases) be able to respond proportionately where the parties are in a position to agree relevant undertakings in the public interest/to protect the public and avoid the need to engage in the formal FtP process entirely. This will enable the BSB to adopt, in appropriate cases, a compassionate and proportionate response to health concerns and may result in a more expedient process, saving time and resources. In particular, such a power is likely to be important in cases where both the practising barrister and the BSB are agreed as to (i) the health issue and the impact of the individual's health condition to the public interest; (ii) the nature of the conditions which might mitigate that impact; and (iii) a referral to the formal process is not a proportionate response or could be detrimental to the individual's wellbeing. In our view, there is no need for an independent panel to oversee the terms of the undertakings in those circumstances, which can be agreed and supported by available medical evidence in appropriate cases.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE303-rE308 - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	Allowing the bypassing of referral to the panel, and providing the BSB with the power of undertakings is more likely to impact those with long term health conditions or disabilities. As this is to be done in accord with the individual in question however, this is more likely to result in a positive impact, reducing the potential additional stress of needing to be referred via panel. If, however, this power was utilised without the consent of the individual to impose undertakings, it would be a disproportionately negative impact on that individual, compared to someone who was permitted to be referred to a panel. For those whose health is particularly poor, and for those to whom a panel referral may be detrimental, this proposal could result in a positive impact.
Age	Older people are statistically more likely to experience intersectional discrimination associated with disability, and therefore may be more likely to experience the positive or adverse impacts outlined under the *Disability* section.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	Individuals who are pregnant may experience long term complications that impact their health, and therefore may be subject to the provisions disproportionately to their comparator (those who are not pregnant). The same mitigations from the *Disability* section apply here.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnerships.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other identified group.

How does the policy advance equality of opportunity?

The proposal seeks to add an additional mechanism which will in turn ease the fitness to practice process for those who give their consent to the undertakings. For those in poor health, not having to undergo additional proceedings unnecessarily may be a significant benefit.

How does the policy promote good relations between different groups?
This proposal actively seeks to tackle barriers faced by those with long term conditions and disabilities. Whilst it does not explicitly set out to promote good relations between different groups, it enables those with the protected characteristics as defined above to more easily access BSB provisions.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	X
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	
Reason for decision: The proposal will result in a positive outcome for those with the protected characteristic of disability, age, and pregnancy/maternity. As explained above, any potential adverse impacts are hypotheticals based on the misuse of the provision, and are well mitigated. The consultation responses did not raise any additional concerns in relation to the power to accept undertakings. The recommendations made within this EIA remain unchanged.		

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale
N/A	N/A	N/A	N/A

Equality Impact Assessment (EIA) – Power to Impose Interim Conditions

Date of Assessment	04/05/2025 Updated 25/03/26
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Power to Impose Interim Conditions
Aim/Purpose of Policy	We are proposing to amend rE313 to introduce a power that would allow panels at a preliminary hearing to impose interim conditions at the preliminary hearing stage (in addition to the existing power to impose an interim restriction). Under the current regime, a panel at a preliminary hearing is only able to impose an interim *restriction*. "Restriction" is a defined term that means a "suspension or disqualification". As part of this proposal, we are also changing the grounds for when an interim restriction (or conditions) can be imposed at a preliminary hearing, by removing "in the individual's own interests".

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE313 - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.

• Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts. • Could unconscious bias have a significant impact? • Don't leave any box blank; if there will be no impact on a particular group then explain why.	
Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	As this policy covers the Fitness to Practice Regime, those who are disabled are significantly more likely to be impacted. Any condition imposed is likely to have a similar material impact on an individual regardless of whether or not they hold the protected characteristic of disability, however the likelihood of the condition being imposed is increased by virtue of those who are disabled being more likely to be referred to the panel. For an equality impact assessment relating to the removal of the "for the individual's own interest" as a ground for the imposition of an interim restriction or condition please see the document titled "EIA – Rebranding the Fitness to Practice Regime and Grounds for Removal".
Age	As older individuals are more likely to experience health concerns, they may be more likely to face the adverse impacts outlined under the *Disability* section.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity. This is under the proviso that it would be highly unlikely for a panel to impose specific conditions on an individual in relation to this protected characteristic.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	Whilst socio-economic status is not a protected characteristic, it is worth raising in this section. Those from a lower socio-economic background and those who are earlier in their career, without an established practice are more likely to be negatively impacted

	by conditions. If they are unable to practice, and do not have the ability to draw funds from elsewhere, this is a substantial adverse effect. However, as these are conditions rather than restrictions, the impact is likely to be lower.

How does the policy advance equality of opportunity?
The proposal will be applied equally across all groupings and characteristics.

How does the policy promote good relations between different groups?
The proposal will be applied equally across all groupings and characteristics.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	X
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	
Reason for decision: Whilst the proposal is more likely to impact those with a protected characteristic (as listed above), the subsequent impacts are unlikely to be significantly more detrimental when compared against a comparator. The consultation responses raised no additional concerns in relation to the power to impose interim conditions. The recommendations of this EIA remain in place.		

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale
N/A	N/A	N/A	N/A

Equality Impact Assessment (EIA) – Power to Refer and Impose Immediate Interim Orders and Interim Orders on the Basis of Conditions Only

Date of Assessment	08/04/2026
Assessor Name & Job Title	Emma Underwood (Equality and Access to Justice Manager)
Name of Policy/Function to be Assessed	Power to Refer and Impose Immediate Interim Orders and Interim Orders on the Basis of Conditions Only
Aim/Purpose of Policy	We propose to extend the power to impose an immediate and interim order so that such orders may be imposed on the basis of interim conditions, rather than interim suspension or disqualification only.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The BSB Handbook. - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.
- Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts.
- Could unconscious bias have a significant impact?
- Don't leave any box blank; if there will be no impact on a particular group then explain why.

Race	There is a possibility that this proposal will have positive impacts on barristers from a global majority background. More information can be found in the "Reasons for decision" section of this analysis.
Sex	There is a possibility that this proposal will have positive impacts on female barristers. More information can be found in the "Reasons for decision" section of this analysis.
Disability	There is a possibility that this proposal will have positive impacts on disabled barristers. More information can be found in the "Reasons for decision" section of this analysis.
Age	There is a possibility that this proposal will have positive impacts on younger barristers. More information can be found in the "Reasons for decision" section of this analysis.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	There is a possibility that this proposal will have positive impacts on barristers from a lower socio-economic background. More information can be found in the "Reasons for decision" section of this analysis.

How does the policy advance equality of opportunity?
This proposal ensures that the draconian method of imposing an immediate interim suspension is not the only recourse available to the BSB when an immediate order is needed.

How does the policy promote good relations between different groups?

This proposal does not explicitly set out to promote good relations between different groups.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	X
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	

Reason for decision:

Whilst we cannot ascertain any specific impact that this proposal may have on any one protected characteristic, it is possible that it will impact both fairness to barristers, and offer positive impacts to certain demographics. This proposal provides a formal remedy for a practice already being used informally at the BSB in order to avoid draconian immediate interim orders by way of suspension, when immediate interim conditions will suffice to protect the public, the client, or the public interest. There is an argument to be made that any barrister in receipt of earnings lower than the profession average (notably those performing legal aid work), but also those who do not earn at an equal level compared to their comparators (females compared to males, barristers from a global majority background compared to white barristers, disabled barristers compared to non-disabled barristers, etc) are also more likely to be positively impacted by this proposal. The imposition of a suspension is a severe measure with severe consequences, since it prohibits the barrister from earning. This is a potentially greater detriment to barristers whose earnings may not be high enough to have accrued a "safety net" for periods where they are not practicing. This is particularly true for junior barristers near the beginning of their career. Therefore, we believe this proposal may have positive impacts on some protected characteristics, and we should pursue it.

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.

Action Required	Desired Outcome	Person Responsible	Timescale
N/A	N/A	N/A	N/A

Equality Impact Assessment (EIA) – Presumption of Anonymity

Date of Assessment	21/05/2025 Updated 16/03
Assessor Name & Job Title	Emma Underwood
Name of Policy/Function to be Assessed	Presumption of Anonymity
Aim/Purpose of Policy	The proposal is to introduce a presumption of anonymity for any witness making an allegation of a sexual or violent nature – that is, a witness falling within the scope of rE176.5.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE176-179 - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Sexual Offences Act (Amendment) 1992 Legal Services Act 2007, and the Equality Act 2010, as well as case law such as *A v X* [2018] 7 WLUK 925 (Employment Appeal Tribunal) and *Lu v Solicitors Regulation Authority* [2022] EWHC 1729.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.
- Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts.
- Could unconscious bias have a significant impact?
- Don't leave any box blank; if there will be no impact on a particular group then explain why.

Race	There is some, limited evidence to suggest that black and white individuals are more likely to experience sexual violence (Enfield Council, 2024). Those from Black (other), mixed (of all variations), White Irish, White (Other), and Other backgrounds were more likely to be the victims of crime (ONS, 2024).
Sex	Sexual harassment is more likely to impact women than men, with 13% of women and 7% of men having experienced it within the last year (ONS, 2023). Additionally, women are more likely to be victims of "headline crimes" (Crime Survey for England and Wales, 2023). Extending the protection of anonymity would have a positive impact on all victims, but as women are statistically more likely to experience sexual harassment or violent crime, they will be particularly impacted. Additionally "Women were more likely to have experienced violent crime. A higher proportion of women experienced domestic abuse (6.6%), stalking (4.0%), sexual assault (3.4%), and harassment (11.2%) in the last year, compared with men (3.0%, 2.3%, 0.8% and 6.6%, respectively). However, men accounted for a higher proportion of victims of violence with and without injury where the perpetrator was a stranger (1% of men, compared with 0.4% of women)." (ONS, 2024). The impacts on those who are victims are laid out in the section entitled "Other Identified Groups".
Disability	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on disability.
Age	Sexual assault is more likely to impact on an individual the younger they are. 11.3% of those aged 16 to 19, and 8.8% of those aged 20-24 had experienced sexual assault within the last year. From this age onwards the prevalent decreases significantly (CSEW, 2022).
Sexual Orientation	Studies suggest that around 50% of transgender people and bisexual women have experienced sexual violence and are at greater risk of it happening to them. Almost 50% of gay and bisexual men have experienced sexual violence (STARS, 2024), significantly higher than for straight men.
Religion/Belief	The protection of anonymity may be even more crucial for those belonging to particular faiths where sexual acts, regardless of their nature, are disparaged in certain contexts. Being known as the victim of a sexual act may put an individual of that faith in jeopardy of further violence from members of their community.
Gender Reassignment	Please see the "Sexual Orientation" section for data on transgender individuals. We acknowledge that gender reassignment does not relate to sexual orientation, however for ease of reading the same study has been included in that section.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	This proposal would have significant positive impacts on those who are or have been victims of an allegation that is violent or sexual in nature. 44% of barristers have witnessed bullying, harassment or discrimination, and the following quote is taken from the Bullying, Harassment and Discrimination at the Bar (2023) report. "122 respondents reported either experience of or observing sexual harassment.

	Noting this is a small sample size from which to draw conclusions, 82% (100) reported sexual or sexist comments, remarks or sounds and 43% (52) reported inappropriate physical contact. Other types of behaviour mentioned included sexual propositions, being the subject of sexist behaviour (e.g., on work WhatsApp groups), receiving sexually explicit content via email or social media, bragging4, use of demeaning language, stalking and unwanted attention." By offering these additional protections, those who are victims are much more likely to put their allegations forwards. Ensuring justice for those victims is both a positive for them as individuals, and aids in preventing or minimizing future instances of allegations that are violent or sexual in nature.

How does the policy advance equality of opportunity?
By extending the protection of anonymity, it removes significant barriers from those who desire to raise an allegation of a violent or sexual nature. Therefore, more individuals have the opportunity to do so.

How does the policy promote good relations between different groups?
This proposal will be applied equally regardless of protected characteristic. The unifying factor in this instance is status as a victim.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	X
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	

Reason for decision:
This change results in a positive impact for all individuals who are victims of a violent or sexual allegation, regardless of whether or not they have a protected characteristic. Whilst there may be some negative impacts on those who are falsely accused, the percentage of false allegations is exceptionally small (approximately 2%, Open University, 2017) and therefore the positive impacts outweigh the negative. The consultation responses did not raise any additional equalities concerns which would materially change the outcomes of this EIA. Attention was given in responses to the necessity of the accused barrister to be given the identity of the accuser, which is in line with this proposal. Consideration was given to the possibility of adding "violent offences" to the proposal, and whilst we are keen to support victims of hate crime, intimidation, or domestic abuse specifically, we have decided not to incorporate the broadness of violence into this proposal on this occasion. It is noted that we still maintain the ability to obtain special measures under rE174.

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale
N/A	N/A	N/A	N/A

Equality Impact Assessment (EIA) – Publication to Appear in All Cases Including dismissals

Date of Assessment	02/04/2026
Assessor Name & Job Title	Emma Underwood (Equality and Access to Justice Manager)
Name of Policy/Function to be Assessed	Publication to Appear in All Cases Including Dismissals
Aim/Purpose of Policy	We propose to extend publication so that outcomes are published in all cases, including where the charges against a barrister have been dismissed.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The BSB Handbook. - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.
- Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts.
- Could unconscious bias have a significant impact?
- Don't leave any box blank; if there will be no impact on a particular group then explain why.

Race	As evidenced in the EIA titled "Overriding Objective", we understand that barristers from a minority ethnic background are more likely to be reported to the BSB compared to their white counterparts. For ease of reference, I have included the relevant excerpt below:

	"Male barristers appear to be more likely to be subject to a report compared to female barristers (around 1.4 times more likely). When aggregating ethnicity, barristers from minority ethnic backgrounds appear to be more likely to be subject to a report compared to White barristers. When further disaggregating by ethnicity, the major differences appear to be for those from Asian/Asian British and Black/ Black British backgrounds compared to White barristers, with those from such backgrounds more likely to be subject to a report." Whilst the data does not necessarily show that barristers from a minority ethnic background are then referred for disciplinary action at a higher rate than white barristers, we must still consider that there may be impact for barristers from a minority ethnic background beyond the report stage. This proposal ensures that, should barristers from a minority ethnic background be overrepresented beyond this point, then if they are cleared of charges they may be exonerated by method of publication.
Sex	As evidenced in the EIA titled "Overriding Objective", we understand that male barristers are more likely to be reported to the BSB compared to their female counterparts. For ease of reference, I have included the relevant excerpt below: "Male barristers appear to be more likely to be subject to a report compared to female barristers (around 1.4 times more likely). When aggregating ethnicity, barristers from minority ethnic backgrounds appear to be more likely to be subject to a report compared to White barristers. When further disaggregating by ethnicity, the major differences appear to be for those from Asian/Asian British and Black/ Black British backgrounds compared to White barristers, with those from such backgrounds more likely to be subject to a report." Whilst the data does not necessarily show that male barristers are then referred for disciplinary action at a higher rate than female barristers, we must still consider that there may be impact for male barristers beyond the report stage. This proposal ensures that, should male barristers be overrepresented beyond this point, then if they are cleared of charges they may be exonerated by method of publication.
Disability	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on disability.
Age	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on age.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.

Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other identified groups.

How does the policy advance equality of opportunity?
This proposal will seek to address a gap caused by new regulations.

How does the policy promote good relations between different groups?
This proposal does not explicitly set out to promote good relations between groups.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	X
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully	

	discriminatory.	

Reason for decision:

We have established previously that barristers from particular demographics (notably those who are male) are more likely to be in receipt of reports, regardless of how advanced the proceedings become, and whether the charges are proved. Under the BSB's new regulatory proposals, the charges against an accused barrister will be published earlier, a potentially reputation damaging act. The proposal itself addresses and acknowledges this, and whilst it primarily focusses on the ideals of transparency and open justice (in themselves worthy ideals), an important consideration in regard to equality and fairness to barristers is that if charges are not proved, this fact should be equally as publicised as the initial publication. The reputation of self-employed barristers are especially crucial, as it is upon this that further earnings are often predicated. I therefore believe that this proposal is likely to cause positive impacts, and should therefore continue.

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.

Action Required	Desired Outcome	Person Responsible	Timescale
N/A	N/A	N/A	N/A

Equality Impact Assessment (EIA) – Rebranding the Fitness to Practice Regime and Grounds for Referral

Date of Assessment	22/04/2025 Updated 31/03/2026
Assessor Name & Job Title	Emma Underwood (Equality and Access to Justice Manager)
Name of Policy/Function to be Assessed	Rebranding the Fitness to Practice Regime and Grounds for Referral
Aim/Purpose of Policy	1. The BSB is undergoing a period of reform and reorganisation, one of the aims of which is to modernise delivery for operational excellence to deliver our gatekeeping, supervision and enforcement functions quickly, efficiently and responsively with no loss of quality. 2. To that end, the BSB is progressing four projects under a "Modernising Delivery" sub-Programme, which aim to complete the implementation of the recommendations arising from the review of our enforcement functions by Fieldfisher LLP. Those projects include the Enforcement Regulations project, to take forward changes to the Enforcement Regulations in Parts 5A to 5D of the BSB Handbook ("the Regulations"). 3. Under this sub-programme, the BSB are proposing changes to the regulations impacting "fitness to practice". Our proposal is to abandon the defined term "*unfit to practise*" (in Part 6 of the Handbook) and to incorporate the grounds for referral to a panel into the body of the regulations. As such, we propose to amend rE303 (or its equivalent) so that it reads as follows: "Where the *Commissioner* receives information suggesting that an *individual's* ability to practise is impaired on the grounds of *health* and the imposition of a restriction or condition or the acceptance of undertakings in lieu is necessary for public protection or otherwise in the public interest, the matter shall be considered under Regulation E305*".* If the proposal set out above is agreed, there will be consequential drafting changes that will be necessary throughout Part 5D and these drafting changes will be explored at the drafting phase of the project. As part of this proposal, we also propose to make the following changes to the existing definition of "unfit to practise": • We propose to change the grounds on which a referral to a panel can be made by removing "individual's own interests" as one of the criteria; • We propose to remove the requirement that an individual be "incapacitated" as a result of the health condition; and • We propose to define the term "health" in Part 6 of the Handbook, as follows: "a physical or mental health condition (including addiction)".

1. Evidence

What evidence will you use to assess impact on equality?

A number of evidence sources have been acquired for this project and proposal. These include:

- The following regulations set out within the handbook; rE303-306, rE310, rE319-320, rE346 & Part 6: Definitions.
- The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise.
- The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders.
- Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law.
- Comparative research on other regulators.
- Internal data analysis, including evidence provided by case officers and managers. This includes the number of fitness to practice cases that have occurred since 2019 (5), as well as the outcome summaries of those cases.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).	
Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	• The removal of “an individual’s own interests” has both positive and adverse potential impacts. Positively, this returns agency back to an individual, ensuring that actions cannot be taken against them without their consent when they would be the only individual negatively affected by continuing to practice. The provisions already set out that in the majority of these cases a barrister who might have been deemed unfit to practice for their own benefit would be covered by the phrase ‘necessary for public protection or otherwise in the public interest’, i.e. that a barrister whose health is so poor it would be in *both* their own interest to be referred, and necessary for the public protection or otherwise in the public interest. Adversely, the removal of this provision could negatively impact on the health of an individual who perhaps should, for their own benefit, undergo be reviewed by a panel. This concern however relates to the wellbeing of the individual, and as outlined, is beyond the scope of the BSB’s responsibilities. • The second change made is an adjustment to the health threshold, from incapacitated to impaired. This threshold has been lowered, meaning that a greater proportion of people will be impacted by the provisions. However, the

	expansion of this definition is unlikely to encompass more individuals than its intended purpose. By widening the definition, there may indeed be more individuals brought forward for referral on the grounds of health, but only where there it is necessary for public protection or otherwise in the public interest.
Age	• Older people are statistically more likely to experience intersectional discrimination associated with disability, and therefore may be more likely to experience the positive or adverse impacts outlined under the *Disability* section.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on different religions or beliefs.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	• Individuals who are pregnant may experience issues or complications that may amount to impairment under the new description.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage and civil partnership.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other groups.

How does the policy advance equality of opportunity?
This policy removes the unclear and open to interpretation language behind “unfit to practice”. It clarifies, therefore, that fitness to practice (within the context of eR303) relates purely to health. Additionally, this change clarifies that health relates to both physical and mental health. Whilst it distances itself from the Equality Act 2010’s definition of disability, it does so to further promote equality of opportunity for those with conditions or lived experience that would otherwise have left them at a disadvantage, that being the inclusion of addiction within the definition. Expanding this definition ensures that those who are living with addiction are not unfairly or unreasonable excluded from the provisions.

How does the policy promote good relations between different groups?

This policy brings the definition of health in line with current terminology and understanding, and therefore promotes acceptance and inclusion

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	X
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	

Reason for decision:

Whilst the majority of the changes raise no cause for concern, steps should be taken to clearly define the new language introduced in the amendments in order to ensure that no adverse impacts are made on those with the protected characteristic of disability in particular.

Significant discussion was conducted in relation to this proposal following the receipt of the consultation responses. Our feedback statement covers the majority of these discussions; however I wish to speak here in greater detail as to the rationale behind these decisions. Whilst the majority or respondents were supportive of the general aims of the proposal, some concerns were listed, which I have summarised and examined below:

The first concern is that individuals who, under the Equality Act 2010 are considered to have a disability, may now fall under the expanded definition within the health regime. This, by itself is not necessarily an issue. We intend to make clear in the guidance that the BSB would never refer someone to the health scheme purely on the basis of their condition, disability or impairment, but only where the impact of those has affected their work. This is in line with our broader duty when it comes to protecting the public. This means that if a barrister is reported to us solely on the basis of a diagnosis, no action would be taken, however this new definition allows us to take action should the impacts of their condition provide an adverse effect on their practice.

Concerns were also raised in relation to the removal of one of our criteria, that being a referral in the barrister's own interest. Whilst it is possible that this could have a negative impact on barrister who may in fact need to receive intervention "for their own interest", we believe that the potential consequences for the misuse of referrals (i.e. spurious referrals), especially considering the widened definition above, outweighs

these concerns. Further guidance will provide greater clarity on how the BSB intends to define terms. Great care should be taken to ensure that the bar for action is sufficiently high, and will expand on our approach to matters including neurodivergence and addiction, which may not be as sufficiently covered within the Equality Act 2010. The recommendations of this EIA remain in place, with additional emphasis on the need for any guidance to be clear and fair for all barristers when it comes to the matter of health and disability.

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale
Ensure that the drafting contains clear definitions of “impairment” that does not set too low a threshold. This will avoid instances where those with chronic illnesses, managed conditions, or minor impairments are being called for referral without need.	Those to whom the previous column refers to will not be unfairly disadvantaged by this regulation change.		

Equality Impact Assessment (EIA) – Representations on Sanctions

Date of Assessment	13/05/2025 Updated 20/02/2026
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Representations on Sanctions
Aim/Purpose of Policy	After hearing any representations by or on behalf of the *respondent(s)*, the *Disciplinary Tribunal* must decide what sanction to impose on a *respondent*, taking into account the sentencing guidance and must record its sanction in writing, together with its reasons.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE303-rE308 - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.
- Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts.
- Could unconscious bias have a significant impact?
- Don't leave any box blank; if there will be no impact on a particular group then explain why.

Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on disability.
Age	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on age.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other identified group.

How does the policy advance equality of opportunity?
This policy does not explicitly set out to advance equality of opportunity.

How does the policy promote good relations between different groups?

This policy does not explicitly set out to promote good relations between different groups.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	X
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	
Reason for decision: The consultation responses did not raise any additional concerns in relation to the representations on sanctions. We considered whether it may be appropriate to include witness statements as part of the sanction process, but we considered it beyond the scope of this project. The recommendations made within this EIA remain unchanged.		

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale
N/A	N/A	N/A	N/A

Equality Impact Assessment (EIA) – Right of Appeal in Health Matters

Date of Assessment	02/04/2026
Assessor Name & Job Title	Emma Underwood (Equality and Access to Justice Manager)
Name of Policy/Function to be Assessed	Right of Appeal in Health Matters
Aim/Purpose of Policy	We will extend the right to appeal the decision of a Health Panel to the BSB, which is currently only afforded to the barrister. We will also amend the regulations to notify both parties of the appeal hearing as well as the right to be heard and notified of the outcome.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The BSB Handbook. - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.
- Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts.
- Could unconscious bias have a significant impact?
- Don’t leave any box blank; if there will be no impact on a particular group then explain why.

Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	It is reasonable to assume that many of those using the health process have the protected characteristic of disability, and may therefore be impacted by any proposal targeting said process. This proposal aims to provide parity between the rights of the barrister and the rights of the BSB in terms of appealing, where currently only the barrister has the right to repeal conditions and decisions. This is, in theory, a potentially negative impact on anyone using the health process, as it is far more likely that the BSB would use this right of appeal to extend or harshen a condition as opposed to removing it. Given that those with the protected characteristic of disability are more likely to use the service, they are therefore more likely to fall foul of this power.
Age	Older individuals may be more likely to also share the protected characteristic of disability, and therefore may be more likely to be impacted by proposals targeting the health process. The same negative impacts from above applies here, therefore.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on other identified groups.

How does the policy advance equality of opportunity?

This policy does not explicitly set out to advance equality of opportunity, however it should be noted that this technically brings an additional layer of parity between both parties, even if not explicitly related to public sector equality duty. I note this here as a way to combat potential allegations of removing equality of opportunity from those using the health process. It is not the case.

How does the policy promote good relations between different groups?
This policy will be applied equally across all characteristics.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	X
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	

Reason for decision:

We have established a potential negative impact on those with the protected characteristic(s) of disability and/or age due to a higher prevalence of those demographics using the health process. The question remains as to whether this is proportionate. The policy proposal states the following:

"Although we have limited practical experience of Health Panel cases (given that none of the small number initiated have progressed to a final hearing), we consider that there is a clear operational need for the BSB to have the ability to appeal decisions in appropriate cases. By amending the regulations in this way, both parties will have an equal opportunity to address or challenge decisions of the panel where appropriate, which will improve the overall fairness and effectiveness of the system."

I find the most important consideration on this matter the very small number of individuals who have progressed through to a final hearing. Therefore the likelihood of this power being utilised is low. Additionally, this power brings the health process in line with all other BSB processes (even though it is not strictly a disciplinary route), making this a useful and logical step towards organisational parity and equality. On balance therefore, I advise that the BSB continues to monitor the number of cases coming through, how often

this power is used (once implemented), and to set a high enough bar in using it to ensure that it is only used when strictly necessary.

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale
The bar for using this power should be set high enough so that it is only used when strictly necessary.	Those with the protected characteristics of disability and age will not be unduly impacted by this proposal.		

Equality Impact Assessment (EIA) – Right of Appeal

Date of Assessment	16/05/2025 Updated 05/02
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Right of Appeal
Aim/Purpose of Policy	We are proposing to amend the wording of rE237 of the Disciplinary Tribunals Regulations to clarify that the BSB can appeal a Tribunal decision where a charge is partially dismissed.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE237 - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.
- Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts.
- Could unconscious bias have a significant impact?
- Don't leave any box blank; if there will be no impact on a particular group then explain why.

Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.

Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on disability.
Age	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on age.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other group.

How does the policy advance equality of opportunity?
This policy will be applied equally across all characteristics.

How does the policy promote good relations between different groups?
This policy will be applied equally across all characteristics.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	X
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	

Reason for decision:

This proposal does not cover the charges themselves, but merely extends the BSB's powers to raise an appeal where a charge has only been "partially" dismissed. The trigger point for any potential unlawful discrimination or adverse impact is far more likely to manifest at the outset of the charges being levied, as opposed to on appeal. Whilst there is always the possibility that any bias may continue into the BSB's decision to appeal, the risk of this is sufficiently low as to not raise any further concerns.

The consultation responses did not raise any additional concerns in relation to the right of appeal. The recommendations made within this EIA remain unchanged.

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.

Action Required	Desired Outcome	Person Responsible	Timescale
N/A	N/A	N/A	N/A

Equality Impact Assessment (EIA) – Right of Review and Clarifying the Review Process (Health proceedings)

Date of Assessment	04/05/2025 Updated 27/03/26
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Right of Review and Clarifying the Review Process
Aim/Purpose of Policy	<u>Two rights of review</u> There are currently two rights of review which can be used to review interim restrictions in the fitness to practise context (rE316.1 and rE324). rE316.1 is specific to interim restrictions, whereas rE324 is a general provision for review of restrictions or conditions which are imposed (whether by direction or through undertakings) under the Fitness to Practise Regulations. The other difference between the two provisions is that rE316.1 provides for a review on request, without having to meet the threshold test set out in rE324 that "there has been a significant change in the *Individual 's* circumstances or that there is some other good reason for a review to be undertaken". However, we note that the Panel nevertheless appears to have a discretion as to whether the review is carried out as rE316 uses the word "may" – it is not a review as of right. We have considered whether there are any circumstances in which we would want an individual to be able to request a review under rE316.1 in relation to an interim restriction or interim undertakings which would not be capable of meeting the test in rE324. Our view is that rE324 is sufficiently broad to cover any reason for a review which we would want to be addressed – the wording of "some other good reason" can be widely construed and could cover a range of circumstances including, for example, where the hearing proceeded in the barrister's absence and they would like the decision reached to be reviewed. In any event, even if the barrister's grounds for review do not fall within either of the grounds in rE324, the barrister nevertheless has the option to bring an appeal as of right under rE328 within 14 days of the date of the decision. The proposed change will also make this part of the regulations consistent with the approach under the Interim Suspension and Disqualification Regulations as the same threshold test for a review (i.e. significant change in circumstances or some other good reason) applies there too. We do not consider it is necessary to have two separate provisions for review, and the review right which is currently available under rE316.1 has no accompanying provisions governing how that review process actually works. <u>Review requests to be directed to President</u> With regard to the "gatekeeping" of reviews (currently those under rE316.1 are at the discretion of the Panel whereas the wording of rE324 could be interpreted as though it is at the discretion of the BSB), we consider that it is appropriate for the President of COIC (or an appropriate delegate), who is independent of the BSB, to make a decision on whether a review hearing should proceed under rE324. We consider the review should not be as of right upon request because this would leave the system open to possible abuse in the form of barristers making repeated review requests frequently which are

	without merit, causing time and resource implications. <u>Streamlining the review process</u> The review process set out in rE325 appears convoluted and overly complex. Under the current regulations, when a case is referred to a panel for a review hearing, it effectively requires the entire FtP process to be repeated, with the exception that the parties may agree in writing that a preliminary hearing is not required. It seems to us that this process is time-consuming, which militates against an efficient process that serves the interests of the public and the individual. We propose to simplify the process by requiring the President, where satisfied that there is a "significant change" in circumstances or "some other good reason", simply to convene a review hearing and notify the parties of the listing date. However, in consequence of this change, we also suggest introducing clear provisions that give the panel at a review hearing the powers to make directions (including ordering further medical evidence), which will mirror some of the powers available to panels at the preliminary hearing stage under rE310.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE316, rE324, and rE325 - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.
- Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts.

• Could unconscious bias have a significant impact? • Don't leave any box blank; if there will be no impact on a particular group then explain why.	
Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	The primary factor for equalities consideration is the following proposal: "We consider the review should not be as of right upon request because this would leave the system open to possible abuse in the form of barristers making repeated review requests frequently which are without merit, causing time and resource implications." Careful consideration must be taken at drafting stage to ensure that review requests are taken as serious and legitimate, and only denied if they truly are spurious or without merit. An individual with the protected characteristic of disability may be more likely to make multiple review requests, as their health and by extension their ability to practice may fluctuate significantly, and a substantive change to their condition may mean that further decisions are required. The other areas called into consideration are unlikely to have an adverse or a positive impact on disability.
Age	As older individuals are more likely to experience health concerns, they may be more likely to face the adverse impacts outlined under the *Disability* section.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other identified groups.

How does the policy advance equality of opportunity?
The proposal will be applied equally across all groupings and characteristics.

How does the policy promote good relations between different groups?
The proposal will be applied equally across all groupings and characteristics.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	X
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	
Reason for decision: Careful consideration must be given at drafting stage to provide appropriate guidance for the rejection of a review request. If this action is not taken, those with the protected characteristic of disability, especially those living with long term conditions, may find themselves at a disproportionate disadvantage. The consultation responses raised no additional equalities concerns in relation to the right of review. Commentary was made on who should be performing this assessment, however we believe that our proposal adequately addresses those concerns to the extent to which they would likely not impact on any protected characteristic in a negative fashion. The recommendations of this EIA remain in place.		

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and

opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale
At drafting stage, guidance must be provided to ensure that review requests are thoroughly considered regardless of their frequency.	Robust guidance that takes into account the recommendations of this assessment.		

Equality Impact Assessment (EIA) - Right of Review

(Interim proceedings)

Date of Assessment	09/05/2025
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Right of Review
Aim/Purpose of Policy	Under rE279 of the current version of the Interim Suspension and Disqualification Regulations, the respondent has the right to request a review at any time while they are subject to an interim suspension, interim disqualification or interim conditions where there is a "*significant change in circumstances or other good reason*". Further, under rE280, on receipt of a review request the President of COIC has discretion as to whether to seek representations from the BSB on the review request and is only obliged to notify the *respondent* of the decision as to whether to convene a review panel to consider the review. The regulations do not currently give the BSB a right to request a review of an interim order. We are proposing extending the right to request a review set out in rE279 so that it applies equally to both parties. We are also proposing changing the threshold for requesting a review from a "*significant*" change in circumstances to a "*material*" change in circumstances. We also consider that it should be mandatory for representations to be sought from the other party before a decision is made on whether to convene a review panel and that it should be mandatory, under the new regulations, for both parties to be notified of the decision of the President as to whether to convene a review panel.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE316, rE324, and rE325 - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law. - Comparative research on other regulators.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.
- Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts.
- Could unconscious bias have a significant impact?
- Don't leave any box blank; if there will be no impact on a particular group then explain why.

Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race. The caveat is however, that the ability for the BSB to increase orders may be subject to unconscious bias, and therefore may impact on those with protected characteristics more keenly.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex. The caveat is however, that the ability for the BSB to increase orders may be subject to unconscious bias, and therefore may impact on those with protected characteristics more keenly.
Disability	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on disability. The caveat is however, that the ability for the BSB to increase orders may be subject to unconscious bias, and therefore may impact on those with protected characteristics more keenly.
Age	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on age. The caveat is however, that the ability for the BSB to increase orders may be subject to unconscious bias, and therefore may impact on those with protected characteristics more keenly.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation. The caveat is however, that the ability for the BSB to increase orders may be subject to unconscious bias, and therefore may impact on those with protected characteristics more keenly.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief. The caveat is however, that the ability for the BSB to increase orders may be subject to unconscious bias, and therefore may impact on those with protected characteristics more keenly.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment. The caveat is however, that the ability for the BSB to increase orders may be subject to unconscious bias, and therefore may impact on those with protected characteristics more keenly.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity. The caveat is however, that the ability for the BSB to increase orders may be subject to unconscious bias, and therefore may impact on those with protected characteristics more keenly.

Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other group. The caveat is however, that the ability for the BSB to increase orders may be subject to unconscious bias, and therefore may impact on those with protected characteristics more keenly.

How does the policy advance equality of opportunity?
By lowering the threshold from “significant” to “material” it provides an ease of access to appeals that was not previously present. It ensures that those whose conditions have changed may feel more empowered to raise an appeal.

How does the policy promote good relations between different groups?
The policy will be applied equally to all groups, and anyone, regardless of characteristic may utilise the new changes.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark ‘X’ next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	X
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	

Reason for decision:
Of the three amendments within this policy (right to request a review, criteria for a review request, and representations and notifications of the President's decisions), we arrive at three separate answers. The third bears no impact on any protected characteristic. Allowing the BSB to request a review of an interim order could of course be misused, and if unconscious bias is present then the power could be utilised in a way that has an adverse impact on any of the protected characteristics above. This is at least somewhat mitigated by the right to appeal. The same logic can be applied to the second amendment, which relates to changing the threshold from "significant" to "material". It is however now brought in line with other regulators and is a commonly understood phrase. On balance, whilst there is potential for unconscious bias to impact on protected characteristics, the change to the regulation itself is reasonable and the risk is comparatively low. The consultation responses did not raise any additional concerns in relation to the right of review. The recommendations made within this EIA remain unchanged.

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale
N/A	N/A	N/A	N/A

Equality Impact Assessment (EIA) – Staff Decision Making

Date of Assessment	12/05/2025 Updated 09/02/2026
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Staff Decision Making
Aim/Purpose of Policy	Our proposal is to widen the scope of rE19.4 to allow staff to make a referral for disciplinary action when the subject matter of the allegation relates to any criminal conviction. Under the current regulations, staff can only make referrals when the allegation relates to a conviction for either an offence of dishonesty or deception or certain driving offences under the Road Traffic Act 1988 (i.e. driving or being in charge of a motor vehicle with alcohol concentration/concentration of a controlled drug above prescribed limit).

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE19.4 - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law. - Research detailing the total number of convictions and wrongful convictions in a given period. - Research detailing the total number of convictions by protected characteristic.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.
- Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts.

• Could unconscious bias have a significant impact? • Don't leave any box blank; if there will be no impact on a particular group then explain why.	
Race	MOJ statistics confirm that people of colour are overrepresented in the criminal justice system at all levels, as demonstrated by the below paragraph: "In general, ethnic minorities (excluding white minorities) appear to be over-represented at many stages throughout the CJS compared with the white ethnic group. This is especially apparent when comparing to the ethnic breakdown of the population of England and Wales. The greatest disparity appears at the point of stop and search, custodial remands and prison population. Among ethnic minorities (excluding white minorities), black individuals were often the most over-represented. At various points across the CJS, the disparity holds for children from ethnic minorities (excluding white minorities). Differences in outcomes between ethnic groups over time present a mixed picture, with disparity decreasing in some areas and widening in others." For the reasons outlined in "Other identified groups", people of colour may therefore be more likely to experience adverse impacts as a result of this policy.
Sex	MOJ statistics also confirm that men are overrepresented in the criminal justice system, with 78% of all individuals being dealt with by CJS in 2023 having been identified as male. For the reasons outlined in "Other identified groups", men may therefore be more likely to experience adverse impacts as a result of this policy.
Disability	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on disability.
Age	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on age.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.

Other Identified Groups	Whilst not a protected characteristic, those with criminal convictions of any nature will naturally be impacted by this change. Whilst a referral to a panel may provide them with an opportunity to explain, rationalise or contextualise the nature of the offense, immediate referral to disciplinary action does not allow for this. Wrongful convictions do occur (1336 successful appeals between June 2019 and March 2020, *University of Law, 2020*), and therefore the removal of the opportunity to discuss the matter is an adverse impact. However, provided the right to appeal remains, this risk is mitigated. It is contextualised still by the comparative scale of convictions versus wrongful convictions, with 1.37 million defendants having been prosecuted in 2019. Compare this to the earlier statistic (though this is a different time frame), and the scale becomes evident.

How does the policy advance equality of opportunity?
This policy does not explicitly set out to advance equality of opportunity.

How does the policy promote good relations between different groups?
This policy does not explicitly set out to promote good relations between different groups.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	X
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully	

	discriminatory.	

Reason for decision:

Whilst there are individuals who may be more likely to be impacted by this change, this is mitigated by the likelihood of these individuals being unjustly or unlawfully impacted.

The consultation responses did not raise any additional concerns in relation to staff decisions, where they relate to equality. They did however raise important links with Baroness Harman's independent report, notably in instances of sexual harassment. One respondent encourages the BSB to investigate such allegations concurrently with criminal investigations rather than wait for the outcome of criminal proceedings. This proposal is currently being considered by the BSB, and a decision will be made in due course. The recommendations made within this EIA remain unchanged.

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.

Action Required	Desired Outcome	Person Responsible	Timescale
N/A	N/A	N/A	N/A

Equality Impact Assessment (EIA) - Timing of Sanctions and Immediate Sanctions

Date of Assessment	13/05/2025
Assessor Name & Job Title	Emma Underwood, Equality and Access to Justice Manager
Name of Policy/Function to be Assessed	Timing of Sanctions and Immediate Sanctions
Aim/Purpose of Policy	We are proposing that the Disciplinary Tribunals Regulations in Part 5B of the Handbook be amended as follows: • First, to introduce a provision (and make any consequential amendments that may be necessary as a result) that makes clear that all decisions on sanction taken by the DT (including disbarment, suspension, conditions and fines) will take effect once either: a. the 21-day period for filing an appeal (which applies because this is the time limit for an appeal under Part 52 of the Civil Procedure Rules, which are referenced in rE237) has expired without an appeal having been filed, or (b) if an appeal has been filed with the High Court, that appeal has been disposed of (whether this is with or without a hearing). • Second, to amend the Tribunal's powers so that they may, pending any appeal, impose an immediate suspension or condition(s) in any case where conditions, a period of suspension or disbarment have been imposed where the Tribunal considers imposing an immediate sanction is necessary to protect the public/in the public interest. We also propose to make amendments to rE238 to allow a barrister to include, alongside their substantive appeal against any sanction, an appeal against any decision to impose a sanction immediately pending the appeal, so that such an appeal would not be limited to cases of disbarment, disqualification or the revocation of a licence or authorisation as is currently the case. Note that we would be proposing to retain the provision for a sanction to begin on an alternative date, under rE228 – as this may be appropriate, for example, where a barrister is permitted to finish particular work that they have already taken on but is not permitted to take on new work after that work is finished. We would also be proposing to retain the right to vary any decision to impose an immediate sanction due to a change in circumstances as provided for in rE230-233.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE225-rE233, rE238, rE241-rE242 - The Enforcement Regulations Project group, which includes individuals from across the Bar

Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law, including *Farquharson v BSB* [2022] EWHC 1128 (Admin), and *Aga v GDC* [2025] EWCA Civ 68). - Comparative research with other regulators.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4). Consider: • Will people from all groups be able to access the service; will there be any barriers for certain groups? • Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination? • Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact. • Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts. • Could unconscious bias have a significant impact? • Don't leave any box blank; if there will be no impact on a particular group then explain why.	
Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on disability.
Age	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on age.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.

Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other identified group.

How does the policy advance equality of opportunity?
This proposal clarifies exactly when a sanction will be enforced, which ensures a standardised practice, which in turn limits any potential for bias.

How does the policy promote good relations between different groups?
The proposal will be applied equally across all groups.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	X
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	

c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	

Reason for decision:

The primary goal of this proposal is to standardise regular practice, therefore the change is not a significant departure from operational proceedings as it stands. For the demographics who are statistically more likely to receive sanctions this change may somewhat impact them, but the point of tension comes earlier in the system – when the sanction is decided upon, as opposed to when the sanction is applied.

The consultation responses did not raise any additional concerns in relation the timing of sanctions. The recommendations made within this EIA remain unchanged.

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.

Action Required	Desired Outcome	Person Responsible	Timescale
N/A	N/A	N/A	N/A

Equality Impact Assessment (EIA) - transitional provisions

Date of Assessment	01/04/2026
Assessor Name & Job Title	Emma Underwood
Name of Policy/Function to be Assessed	Transitional Provisions
Aim/Purpose of Policy	We propose to update the commencement and transitional provisions so that the revised regulations will come into force on 1 February 2027. We will implement a "clean break" so that the revised regulations will apply to all cases from that date, whether or not they are already in train.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The BSB Handbook. - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law. - Comparative research on other regulators.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.
- Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts.
- Could unconscious bias have a significant impact?
- Don't leave any box blank; if there will be no impact on a particular group then explain why.

Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on disability
Age	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on age.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on other identified groups.

How does the policy advance equality of opportunity?
When the new regulations come into force, all those impacted will have access to the new regulations at precisely the same time.

How does the policy promote good relations between different groups?

This proposal will be applied equally across all protected characteristics.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	X
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	
Reason for decision: This proposal merely states the date in which the new regulations will come into force.		

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale
N/A	N/A	N/A	N/A

Equality Impact Assessment (EIA) – Undertakings subject to review rather than to appeal

Date of Assessment	01/04/2026
Assessor Name & Job Title	Emma Underwood
Name of Policy/Function to be Assessed	Undertakings subject to review rather than to appeal
Aim/Purpose of Policy	We will extend the right to request a review of an interim order so that it also applies in respect of undertakings accepted and imposed by an interim panel.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The following regulations set out within the handbook; rE237 - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.
- Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts.
- Could unconscious bias have a significant impact?
- Don't leave any box blank; if there will be no impact on a particular group then explain why.

Race	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on race.
Sex	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sex.
Disability	Those who are living with mental health conditions such as anxiety may find additional relief knowing that an interim order may now be subject to review. The power to change or alter an interim order is an important element in this, though of course the power applies in both directions, given that the BSB is also granted this power.
Age	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on age.
Sexual Orientation	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on sexual orientation.
Religion/Belief	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on religion or belief.
Gender Reassignment	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on gender reassignment.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity,
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on any other identified group.

How does the policy advance equality of opportunity?
This policy does not explicitly set out to advance equality of opportunity.

How does the policy promote good relations between different groups?

This policy will be applied equally across all groups.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	X
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	
Reason for decision: This proposal merely extends an already existing power (that of a review) to undertakings, applying it as it would to many of our other functions. Creating this parity across functions is not only a logical step, though we cannot find any evidence to suggest that individuals belonging to any one protected characteristic may be more likely to be subject to an interim order than any other, nor can we ascertain any reason why this might be likely. Therefore it does not appear that this proposal will have any negative impact on any protected characteristic. Having the right to review from the side of the barrister may however help those who live with mental health conditions such as anxiety, as it may give them the peace of mind that decisions on interim orders may be changed following a review.		

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale
N/A	N/A	N/A	N/A

Equality Impact Assessment (EIA) – Non-Party Disclosure Policy

Date of Assessment	09/04/2026
Assessor Name & Job Title	Emma Underwood (Equality and Access to Justice Manager)
Name of Policy/Function to be Assessed	Non-Party Disclosure Policy
Aim/Purpose of Policy	This policy sets out BTAS' policy on publication and access by non-parties to documents that relate to Disciplinary Tribunal proceedings. It applies to requests to access documents made by non-parties, including members of the public and the press. Within it, the policy details the particulars of publication and access to documents by non-parties including the media. These details include how a non-party may request documents, how BTAS staff should make decisions around publication, and when they might allow or refuse a request.

1. Evidence

What evidence will you use to assess impact on equality?
A number of evidence sources have been acquired for this project and proposal. These include: - The BSB Handbook. - The Enforcement Regulations Project group, which includes individuals from across the Bar Standards Board, including those with legal expertise. - The Stakeholder Reference Group, which includes individuals of a variety of professions, both within the BSB, and external stakeholders. - Relevant legislation, primarily the Legal Services Act 2007, and the Equality Act 2010, as well as case law.

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Consider:

- Will people from all groups be able to access the service; will there be any barriers for certain groups?
- Could any part of the policy discriminate unlawfully; is there evidence of indirect discrimination?
- Are there changes proposed in related policy areas? Changes in one policy area can have a small impact, but the cumulative effect of changes in related areas could have significant impact.

• Think about the BSB/BC as a whole; another team may be already carrying out activities which can help to mitigate negative impacts. • Could unconscious bias have a significant impact? • Don't leave any box blank; if there will be no impact on a particular group then explain why.	
Race	Impacts on race are considered in sections below, as they primarily relate to earning disparity and the impact of reputation.
Sex	Impacts on sex are considered in sections below, as they primarily relate to earning disparity and the impact of reputation.
Disability	There may be a minor impact on those with the protected characteristic of disability if the reasonable adjustments policy is not followed. The policy specifies that objections to publication must be communicated in writing, but those who are unable to do so should be provided appropriate accommodation and alternative methods of sending in this request. Further information and suggested actions can be found below. The policy states that information relating to health may be redacted, which is a welcome clarification. Those with the protected characteristic of disability may be negatively impacted should details of their condition be made to the public, and the option to redact these is a strong mitigation.
Age	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on age.
Sexual Orientation	If an individual's sexual orientation is revealed in published documents, this may amount to discrimination. The "outing" of an individual may lead to harm, which can manifest in a multitude of ways including violence. Where a person's sexual orientation is considered a secret, it should not be unduly publicised without a significant valid reason.
Religion/Belief	The disclosure of specific information may negatively impact on those within certain religions or cultures. Where an individual may be linked to a case involving sexual harassment or assault they may be at greater risk of honour based abuse if they belong to certain cultures. It may be perceived that they have "brought shame or dishonour to a family or community" (Reducing the Risk https://reducingtherisk.org.uk/honour-based-abuse-fgm/), and therefore be subjected to HBA. If an individual is named or identified by the documents published, and thereby associated with instances of sexual harassment or abuse they may be at significant risk. When considering requests for blocking, redaction, or anonymisation, this harm should be duly considered.
Gender Reassignment	If an individual's trans status is revealed in published documents, this may amount to discrimination. Section 22(1) of the Gender Recognition Act 2004 states that "It is an offence for a person who has acquired protected information in an official capacity to disclose the information to any other person." This applies if the individual at hand has obtained a Gender Recognition Certificate. It may be possible that certain published documents may contain information regarding a person's trans status and/or GRC, and therefore this disclosure may constitute an offense (under the Gender Recognition Act 2004) and/or discrimination (under the Equality Act 2010). In order to mitigate against this, a clear understanding should be held be BTAS staff and/or the Chair or Directions Judge on what the remits of "any harm" are, when it

	relates to the accepting of a request to block publication.
Pregnancy/ Maternity	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on pregnancy or maternity.
Marriage and Civil Partnership	We do not have any evidence which suggests this policy will have an adverse, or a positive impact on marriage or civil partnership.
Other Identified Groups	There is a potentially positive impact on those from a lower socio-economic background, or those experiencing financial hardship. Access to documents is generally free of charge, save for a small free for physical documents. Fee waivers are available however, provided someone can evidence their experience of financial hardship. I would raise however what the method be for ascertaining this, what kind of documents might be required, and the threshold for granting the waiver.

How does the policy advance equality of opportunity?
This policy allows for certain mitigations including redaction and anonymisation. Provided these can be applied in instances where the revealing of sensitive information would prove harmful to those with certain protected characteristics, then this policy creates an even playing field where there is equality for all whom it impacts.

How does the policy promote good relations between different groups?
This policy does not explicitly set out to promote good relations between different groups.

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the	X

	policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	

Reason for decision:

I shall begin this part of the analysis by stating that I have referred to the particulars of any potential discrimination against any one group in the above sections, but will conduct the bulk of the assessment here, as the considerations will often pertain to broader areas beyond the remit of any one group. Secondly, this EIA is an analysis of the policy itself, the process and the wording. The power itself is addressed in the EIA titled "Confidentiality and Transparency". This matter is one of balance, between the principles of open justice, as laid out in the introduction to the policy, and principles of privacy (Article 8 of the Human Rights Act 1998) and fairness. The policy is keen to emphasise the discretionary nature of this power, which I find to be reassuring, as a hardline on any of these matters will certainly lead to error when it comes to decisions involving grey areas. It can also therefore take into account the specific circumstances of individuals, including the presence of one or more protected characteristic, without which may have resulted in a different outcome. I will address the matter of flexibility in greater detail later. For ease of reading, and to give a flavour of the rationale, I have included the following quote which relates to the descriptor of the "media and non-parties" proposal, which has received its own Equality Impact Assessment titled "Confidentiality and Transparency":

"A number of recent cases have given rise to questions about non-party access to documents and the media's right to make representations to BTAS; for example, in relation to applications for anonymity by barristers or for the substantive hearing to be heard in private. These cases give a flavour of the types of issues and challenges that can arise within the context of open justice. In considering other regulators approaches, we noted that the SDT has policies in place dealing with non-party access to documents and the automatic disclosure of certain categories of documents (e.g. skeleton arguments), to give effect to the open justice principle. They do not have an explicit power authorising the disclosure of documents relating to proceedings, rather their disclosure policies rely on the fact that 'nothing within the [Act]… prevents the implementation of the automatic disclosure policy' and that the policy 'gives real effect to the 'overriding objective' set out'. While we do not consider these issues warrant the creation of entirely new regulations at this stage, we believe an added benefit of our proposal to introduce the suite of new case management powers outlined above (and below) is that the new proposed powers should provide a framework within which the Tribunal can act, reacting flexibly and proactively as novel issues arise in a case."

The policy sets out a set of exemptions to the automatic publication of documents in the public domain. The following is taken from the policy:

"The publication of documents may also be restricted where disclosure would reveal:

- confidential information;
- legally privileged information;
- sensitive personal information; or
- other private or prejudicial information."

Once again, the discretionary and flexible nature of this process is to its advantage. Hard lines around exemptions would be likely to leave many worthy requests for non-publication rejected. It should be noted that this in and of itself is not a positive impact on anyone, rather it is a mitigation which may help to offset potentially negative impacts faced as a result of this policy.

The policy states that in order to object to publication the individual must do so in writing in order for their request to be considered. This is not in and of itself a barrier, however if reasonable adjustments are not

considered and flexibility afforded then this may amount to discrimination towards those with the protected characteristic of disability, as described above. In order to remedy this, I would recommend explicitly including phrasing which suggests alternate methods of communication. These alternatives may include a member of BTAS staff taking the information over the phone, an in-person meeting, or similar arrangements. By written communication, we should not distinguish between email and postal communication and either should be accepted.

Part of the written request must include "any harm that would be caused by publication". This broad element offers the ability to serve as a catch all, including for harm such as discrimination or harm caused by the presence of a protected characteristic. The remits and limits of this are not clearly defined however. For instance, if successfully argued, would publication of documents revealing the trans status of a party be prevented if the case had nothing to do with this subject matter? Would a redaction be appropriate? There are multiple instances of harm which could occur if these matters are not considered. Any of these instances may amount to discrimination provided that they relate to a protected characteristic, and often revolve around the disclosure of information which, unless kept secret, would place the individual at risk. This risk goes beyond potential discrimination, but also covers the potential for violence. Specific instances have been considered in the relevant sections above, but Chairs or Directions Judges must be alive to the potential harm caused by denying a request at all times. It is supposed that the Chair or Directions Judge will have discretion when determining what the policy means by "any harm" and therefore must take into consideration these equality impacts when doing so.

There are, however, good mitigations in place for circumstances where publication is necessary. Both redaction and anonymisation are options available to the Chair or Directions Judge, which may be able to prevent or mitigate serious harm incurred as described above. It is not, however, a perfect solution. Individuals may still be easily identifiable by triangulating information. Article 9(1) of the General Data Protection Regulations states the following in relation to special category data:
"Processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation shall be prohibited."

These additional protections apply to many of the protected characteristics listed in the Equality Act 2010. This means, of course, that significant care must be taken when considering how to redact any such information pertaining to these categories. If the intent of redaction or anonymisation is to hide the identity of an individual and protect their privacy, it should be the case that they cannot be identified by associated information. No information has yet been provided on the stylistic guide for redaction or anonymisation, but I should expect it to be thorough, and not simply a tokenistic approach designed to circumnavigate a complex situation where a document must be published, but potential harm to an individual has been identified.

An "individual's personal or identifiable details, such as home addresses" is given as an example of where redaction may be appropriate, however no additional examples are given where this may relate to equality matters. As stated above, it is critical to acknowledge that protected characteristics can and often do serve as personal or identifiable details, and should be treated with the same level of sensitivity as other details, situation permitting.

As with all instances where a singular person is responsible for decision making, there is a risk of unconscious bias given that it is only the Chair or Directions Judge deciding whether or not to block publication based on a request. Their own personal biases, or simple lack of knowledge and understanding may compromise their ability to recognise harm as a soul entity, whereas this risk is diluted with additional decision makers. In this instance however, adding more decision makers is unlikely to be appropriate. Instead, Chairs and Directions Judges should receive appropriate training and be able to consult with relevant experts where necessary.

There is a presumption in favour of granting access to documents where the applicant "is a bona fide journalist and the request is made for proper journalistic reasons". No further explanation on this is given

however. It is apparent that inappropriate use of journalistic powers can lead to significant harm, as was the case of Lucy Meadows in 2013, where the publication of a teacher's gender transition in mainstream press later led to her suicide. There is no question that broad publication of sensitive information can result in harm, and extreme care should be taken when considering how to engage with the press on such matters. Redaction and anonymisation should be used where possible to avoid significant negative impact.

Line 47 states that "redactions should not be permitted…to avoid reputational risk or embarrassment". I find this comment to be somewhat unhelpful. Reputational risk, whilst a nebulous concept, can and often does have a tangible impact on the earnings of self-employed barristers. Whilst it is true that many barristers significantly outearn the national average, there is significant disparity across fields, sex, race, and disability categories. This is particularly true for juniors in their second six (who tend to skew younger), who will rely on reputation in order to secure tenancy and further their careers. Reputational damage due to publication could be a significant detriment, and is therefore more likely to impact on the characteristic of age (younger). Additionally, barristers working in crime, family, or regulatory law tend to have lower incomes than those working in corporate or chancery law. Reputational damage and subsequent loss of earnings would be a significant impact. Below I have outlined alternative wording.

To conclude, the primary source of conflict to be found in this policy is that between the principles of open justice, and the right to private and family life as articulated by Article 8 of the Human Rights Act 1998. BTAS must preserve this right, ensuring that all parties are treated with equity, and that any potential risks or harm are sufficiently mitigated. On the other hand, the principles of open justice are also important from an equality perspective. It is a core element of the rule of law, and ensuring that justice is transparent and accessible to all allows for better decisions to be made, and that those decisions can be scrutinised. Based on the evidence at hand, I believe that a select number of changes need to be implemented in order to mitigate the impacts to the greatest extent possible. These are outlined below. It should be noted however that the recommendations of this EIA should be taken in their entirety. Section 4 details specific actions which must be taken, but this does not remove the gravity from the arguments outlined above. In addition to the actions outlined below, we recognise the significance of these challenges and will work with BTAS to ensure they are given proper consideration, when developing, implementing and updating this policy.

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.

Action Required	Desired Outcome	Person Responsible	Timescale
The method and threshold for granting fee waivers should be clearly outlined. It should include: - The type of documents accepted as evidence of financial hardship (e.g. documents proving that a person is in receipt of social benefits). - The threshold for granting a fee waiver. - Details of any discretionary powers held by BTAS staff.	Those seeking a fee waiver will be fairly assessed, with the same set of standards applying across the board.		

A line should be added to the section describing the method in which one may object to publication. It should read as follows: “BTAS will always consider other methods of communication as reasonable adjustments, as is our duty under the Equality Act 2010.”	Reasonable adjustments will be considered and appropriately intimate, allowing disabled individuals to have parity of access.		
When defining “any harm”, BTAS should ensure that decision makers take into account specific impacts that may be faced by those with certain protected characteristics.	Those with protected characteristics who would be impacted by the disclosure of information will be safeguarded from potential harm.		
Chairs and Directions Judges should receive appropriate unconscious bias training and any other relevant training so that decisions made by them remain fair.	Individuals will not fall victim to decisions made under the influence of unconscious bias.		
The line “redactions should not be permitted…to avoid reputational risk or embarrassment” should be rephrased as “Redactions should not be typically be permitted simply because they are sought or agreed by the parties or to avoid reputational risk or embarrassment, however consideration should be given to the impact that reputation may have on an individual’s wellbeing and circumstances.”	Due consideration will be given to the impact of reputation in a sector where this carries considerable weight.		