Bar Standards Board Enforcement Decision Regulations 2027

Introduction

These Regulations set out how we assess reports and investigate allegations which may indicate a potential breach of any regulatory obligation or require regulatory action, and what regulatory decisions are available at the conclusion of an investigation. These Regulations also set out the operation of the administrative sanction appeal procedure and the determination by consent procedure.

They apply to practising barristers, pupils, other BSB regulated persons and entities, and unregistered barristers.

This introduction does not form part of the BSB Enforcement Decision Regulations 2027.

1. Citation and commencement

1.1 These Regulations shall be known as the 'BSB Enforcement Decision Regulations 2027' and have been approved as an alteration to the regulatory arrangements of the Bar Council as an approved regulator by the Legal Services Board under Schedule 4, Part 3 of the Legal Services Act 2007.

1.2 These Regulations shall come into effect on 1 February 2027 and shall also apply to all *reports* received by the *BSB* prior to that date under the Regulations then applying, and any step taken in relation to any *report* or *allegation* pursuant to those Regulations shall be regarded as having been taken pursuant to the equivalent provisions of these Regulations.

2. Interpretation and authorisation

2.1 In these Regulations the words and expressions which are italicised shall be interpreted in accordance with the definitions in Part 6 of the *Handbook.*

2.2 In these Regulations, any reference to the singular shall include the plural and vice versa.

2.3 The *BSB* shall have the power to delegate to any person, group or body any function or power exercisable by the *BSB* or *an authorised decision-maker* under these Regulations; any such delegation must be in writing and may be either or both retrospective and prospective, and either or both general and for a particular purpose.

2.4 The *President* shall have the power to authorise any person, group or body to fulfil any function or exercise any power exercisable by the *President* under these Regulations; any such authorisation given must be in writing and may be either or both retrospective and prospective, and either or both general and for a particular purpose.

3. Initial assessment of *reports*

3.1 The *BSB* may assess any *report* which comes to, or is brought to, its attention in respect of an *applicable person* to decide:

(a) whether or not there are grounds for an *allegation* under regulation 8.3; and

(b) whether or not it should be referred to another person or body for investigation under regulations 4 to 7 below.

3.2 The *BSB* may gather such information as it considers appropriate from any source for the purpose of assessing a *report* under regulation 3.1.

4. Referral to the *Legal Ombudsman*

4.1 If it appears to the *BSB* that a *report* or part of a *report* raises a service issue within the jurisdiction of the *Legal Ombudsman*, the *BSB* must:

(a) refer the *report* to the *Legal Ombudsman;* or

(b) signpost the provider of the report to the *Legal Ombudsman;*

5. Referral where *applicable person* acting in part-time or temporary judicial or quasi-judicial capacity

5.1 If it appears to the *BSB* that a *report* relates to an *applicable person's* conduct in a part-time or temporary judicial or quasi-judicial capacity, the *BSB* must:

(a) refer the report to an appropriate body including:

(i) the person or body responsible for the appointment of the *applicable person* to the judicial or quasi-judicial office concerned;

(ii) the Judicial Conduct Investigations Office; or

(iii) another person or body responsible for considering such reports; and

(b) request notification of the outcome of the appropriate body's consideration as soon as it has been dealt with.

5.2 Where the appropriate body refuses to deal with the *report*; or the *BSB* considers that the appropriate body has not dealt with it within a reasonable time or fully or satisfactorily; or it appears that there is no appropriate body, the *BSB* may consider the *report* in accordance with these Regulations.

5.3 When the appropriate body has dealt with the *report*, the *BSB* may consider the *report* in accordance with these Regulations and may consider any finding made and any action taken by the appropriate body.

5.4 The *BSB* must not consider or take action in relation to a *report* arising in substance from dissatisfaction or disagreement with anything decided, done or said by the *applicable person* in the proper exercise of their judicial or quasi-judicial functions.

6. Referral where *applicable person* holds full-time judicial office

6.1 Where it appears to the *BSB* that the *report* relates to the conduct of an *applicable person* who, since the events giving rise to the report took place, has been appointed to and continues to hold full-time judicial office and has ceased to practise, the *BSB* shall not consider the *report* further and must direct the person from whom the *report* is received to the Lord Chancellor or the Judicial Conduct Investigations Office or to such other person or appropriate body with responsibility for addressing complaints about judges.

7. Referral to another body

7.1 Where it appears to the *BSB* that a *report* in respect of an *applicable person* might more appropriately be dealt with by another body (e.g. an *Inn*, Circuit, employer, a complaint handling body or any other professional or regulatory body), the *BSB* may refer the *report* to such other body.

7.2 If, having referred a *report* to another body under regulation 7.1, the *BSB* subsequently considers that the *report* has not been dealt with by that other body within a reasonable time or fully or satisfactorily, the *BSB* may consider the *report* in accordance with these Regulations and may consider any finding made and any action taken by the other body.

8. Treating a *report* as an *allegation*

8.1 The *BSB* may carry out such investigations, and in doing so may exercise any of its investigative powers, as it considers appropriate:

(a) to determine whether to treat a *report* as an *allegation* under regulation 8.3; or

(b) in its consideration of an *allegation* at any time until a decision is made under regulation 12 or regulation 13.

8.2 As soon as reasonably practicable after commencing an investigation under regulation 8.1, the *BSB* will notify the *applicable person* in writing unless and to the extent that it considers that it would not be in the public interest to do so.

8.3 Where the *BSB,* having completed the initial assessment of the *report* and any investigations under regulation 8.1, and having regard to the factors in regulation 8.4, considers that a *report*:

(a) discloses a potential breach of any *regulatory obligation* by an *applicable person*; or

(b) potentially satisfies the *disqualification condition*

the *BSB* may treat the *report* as an *allegation*.

8.4 In determining whether to treat a *report* as an *allegation* under regulation 8.3, the *BSB* must have regard to:

(a) whether the conduct disclosed in the *report* or its consequences presents sufficient risk to the *regulatory objectives* to justify further action;

(b) whether the conduct disclosed in the *report* can be properly and fairly investigated; and

(c) whether the conduct disclosed in the *report* could not more appropriately be dealt with under one or more of the provisions set out at regulations 4 to 7 above.

8.5 If the *BSB* decides not to treat a *report* as an *allegation* under regulation 8.3, the *BSB* must give notice of that decision in writing to any *applicable person* to whom notice has been given under regulation 8.2

9. Investigation of *allegations*

9.1 Following a decision to treat a *report* as an *allegation* under regulation 8.3, the *BSB* may carry out such further investigations under regulation 8.1(b) as it considers appropriate.

9.2 If a new *report* comes to light during an investigation of an *allegation* under regulation 9.1 which meets the criteria in regulation 8.4, the *BSB* may treat it as a new *allegation* and investigate it in accordance with these regulations.

9.3 The *BSB* may defer further investigation of the original *allegation* until a new *report* or *allegation* has been investigated.

10. Notice of *allegations* to the *applicable person*

10.1 Before any decision is made under regulation 12, the *BSB* shall give notice to the *applicable person:*

(a) setting out the *allegation* and the facts in support;

(b) summarising any regulatory or other history relating to the *applicable person*, which is relevant to the *allegation;*

(c) accompanied by any evidence or documentation that the *BSB* considers to be relevant to the *allegation*;

(d) inviting the *applicable person* to respond with written representations and any supporting evidence within such period as the *BSB* may specify (which must be no less than 14 days from the date of the notice); and

(e) notifying *the applicable person* that any representations or extracts of any representations received from them may be shown to any person related to the subject-matter of the *allegation* for the purposes of the investigation.

11. Additions, amendments and withdrawal of *allegations*

11.1 Before any decision is made under regulations 12 or 13, an *authorised decision-maker* or an *Independent Decision-Making Panel* may add to, or amend, any *allegations* referred to them for determination, without inviting a further response from the *applicable person* under regulation 10.1, provided that:

(a) any additions or amendments arise out of substantially the same facts as the original *allegation* or *report*; and

(b) the additions or amendments can be made without any unfairness to the *applicable person*.

11.2 No further investigation or opportunity to respond is required where the subject matter of any new *allegation* has already been investigated by the *BSB* and the *applicable person* has already been given an opportunity to respond to it during the original investigation.

11.3 The *BSB* may withdraw any *allegation* at any time before a decision is made under regulations 12 or 13 and treat it as if a decision under regulation 8.3 had not been made.

12. Possible outcomes of the investigation

12.1 An *authorised decision-maker* may refer an *allegation* to an *Independent Decision-Making Panel* for a decision under regulation 13 or make a decision in relation to an *allegation* under regulation 12.2 or 12.6.

12.2 Save where referred to an *Independent Decision-Making Panel* under regulation 12.1, an *authorised decision-maker* may decide:

(a) that the conduct alleged did not constitute a breach of any *regulatory obligation;*

(b) that there was insufficient evidence of a breach of any *regulatory obligation*;

(c) that the conduct alleged did constitute a breach of a *regulatory obligation* but that, in all the circumstances, no enforcement action should be taken in respect of the breach;

(d) that the conduct alleged did constitute a breach of a *regulatory obligation* and that the breach should be dealt with by the imposition of an *administrative sanction* in accordance with regulation 14~~15~~; or

(e) to refer an *allegation* for *disciplinary action* in accordance with regulation 12.3.

12.3 An *authorised decision-maker* may refer an *allegation* for *disciplinary action* under regulation 12.2(e), subject to regulation 12.4 below, where they decide that:

(a) the conduct alleged may constitute a breach of a *regulatory obligation;* and

(b) if the breach were to be proved, an *administrative sanction* would not be appropriate in all the circumstances; and

(c) the subject matter of the *allegation* against an *applicable person* involves:

(i) any criminal conviction;

(ii) a breach of any *regulatory obligation* in Part 3 or 4 of the Handbook or any successor regulations;

(iii) any failure to pay an administrative fine within the relevant time; or

(iv) a failure to comply with any requirements of a sanction imposed or other orders following the conclusion of *disciplinary action.*

12.4 An *allegation* shall be referred for *disciplinary action* under regulation 12.2(e) only where an *authorised decision-maker* is satisfied that:

(a) there is *a realistic prospect of a finding of professional misconduct being made* or there is *a realistic prospect of the disqualification condition being satisfied*; and

(b) having regard to the risk to the *regulatory objectives*, it is in the public interest to pursue *disciplinary action.*

12.5 When an *authorised decision-maker* makes a decision under regulation 12.2(a) to (c), the *authorised decision-maker* may issue the *applicable person* with advice.

12.6 Save where referred to an *Independent Decision-Making Panel* under regulation 12.1, in the case of a *non-authorised individual* (other than an unregistered barrister, a manager of a *BSB* entity or a *registered European lawyer* who does not have a current practising certificate) who at the time of the alleged conduct was an employee of a *BSB authorised person,* an *authorised decision-maker* may only:

(a) decide that no further action should be taken in relation to the *allegation;* or

(b) refer the *allegation* to the *Disciplinary Tribunal* to form the subject matter of a *disqualification application*.

13. Decisions of an *Independent Decision-Making Panel*

13.1 Schedule 1 to these regulations sets out the composition of an *Independent Decision-Making Panel* and the proceedings of an *Independent Decision-Making Panel*.

13.2 Subject to regulation 13.6, where an *allegation* has been referred to an *Independent Decision-Making Panel* under regulation 12.1, the *Independent Decision-Making Panel* may decide, on the evidence before it:

(a) that the conduct alleged did not constitute a breach of any *regulatory obligation*;

(b) that there was insufficient evidence of a breach of any *regulatory obligation;*

(c) that the conduct alleged did constitute a breach of a *regulatory obligation*, but that, in all the circumstances, no enforcement action should be taken in respect of the breach;

(d) that the conduct alleged did constitute a breach of a *regulatory obligation* and that the breach should be dealt with by an *administrative sanction* in accordance with regulation 14; or

(e) to refer an *allegation* for *disciplinary action* in accordance with regulation 13.3.

13.3 When an *Independent Decision-Making Panel* decides, on the evidence before it that:

(a) there is *a realistic prospect of a finding of professional misconduct being made* or there is *a realistic prospect of the disqualification condition being satisfied*; and

(b) having regard to the risk to the regulatory objectives, it is in the public interest to pursue *disciplinary action*

the *allegation* must be referred for *disciplinary action*.

13.4 In conjunction with a decision under regulation 13.2, an *Independent Decision-Making Pane*l may recommend that:

(a) the *BSB* consider referring the *applicable person* under the BSB Health Panel and Procedure Regulations 2027;

(b) the *BSB* consider whether to take other regulatory action; or

(c) the *BSB* consider whether to make a referral for an interim order under regulation 6.1 of the BSB Interim Orders Regulations 2027.

13.5 When an *Independent Decision-Making Pane*l reaches a decision under regulation 13.2(a) to (c), the *Independent Decision-Making Pane*l may issue the *applicable person* with advice.

13.6 In the case of a *non-authorised individual* (other than an unregistered barrister, a manager of a *BSB* entity or a registered European lawyer who does not have a current practising certificate) who at the time of the alleged conduct was an employee of a *BSB authorised person,* where an *allegation* has been referred to an *Independent Decision-Making Panel* under regulation 12.1, an *Independent Decision-Making Panel* may only:

(a) decide that no further action should be taken in relation to the *allegation;* or

(b) refer the *allegation* to the *Disciplinary Tribunal* to form the subject matter of a *disqualification application*.

13.7 Prior to making a decision under regulation 13.2 or 13.6, an *Independent Decision-Making Pane*l may request further investigation be carried out by the *BSB* under regulation 8.1(b).

14. *Administrative sanctions*

14.1 An *authorised decision-maker* or an *Independent Decision-Making Panel* may decide to impose an *administrative sanction* on an *applicable person* under regulation 12.2(d) or regulation 13.2(d) respectively where they consider that:

(a) there is sufficient evidence of a breach of any *regulatory obligation* by that *applicable person*; and

(b) the imposition of an *administrative sanction* is proportionate and sufficient in the public interest.

14.2 In determining the nature and level of any *administrative sanction* to be imposed, an *authorised decision-maker* or an *Independent Decision-Making Panel* must have regard to any published *BSB* policy that appears to be relevant.

14.3 The maximum level of a fine which can be imposed by an *authorised decision-maker* or an *Independent Decision-Making Panel* as an *administrative sanction* is:

(a) £1,000 (one thousand pounds) where the fine is to be imposed on an *applicable person* who is not a *BSB entity*; or

(b) £1,500 (one thousand and five hundred pounds) where the fine is to be imposed on a *BSB entity*.

14.4 Any decision to impose an *administrative sanction* will be recorded by the *BSB* and may, where appropriate, be considered as part of continued monitoring or other regulatory action but will not be disclosed to any third parties except in accordance with regulation 19.2.

14.5 The *applicable person* may appeal a decision of an *authorised decision-maker* or an *Independent Decision-Making Panel* to impose an *administrative sanction* in accordance with regulation 17.

15. *Determination by consent procedure*

15.1 Where an *authorised decision-maker* or an *Independent Decision-Making Panel* is satisfied that an *allegation* should be referred for *disciplinary action* under regulation 12.2(e) or regulation 13.2(e), such an *allegation* may, with the consent of the *applicable person* against whom the *allegation* is made, be finally determined as a charge of professional misconduct instead by an *Independent Decision-Making Panel* under the *determination by consent procedure*.

15.2 An *authorised decision-maker* or an *Independent Decision-Making Panel,* in deciding to refer an *allegation* for final determination as a charge of professional misconduct under the *determination by consent procedure*, must consider all the circumstances, and may only reach such a decision if:

(a) the *applicable person* has provided their express written consent to the case being dealt with by an *Independent Decision-Making Panel* under the *determination by consent procedure*; and

(b) an *authorised decision-maker* or an *Independent Decision-Making Panel* considers that:

(i) there are no substantial disputes of fact which can only fairly be resolved by oral evidence being taken;

(ii) having regard to the risk to the *regulatory objectives*, it is in the public interest to resolve the *allegation* under the *determination by consent procedure*; and

(iii) the potential professional misconduct if proved, combined with the *applicable person*'s previous disciplinary history, does not appear to be such as to warrant a period of *suspension* or disbarment, the withdrawal of an authorisation or licence (as appropriate) or the imposition of a *disqualification order* (or equivalent by another *approved regulator*).

15.3 Where an *authorised decision-maker* or an *Independent Decision-Making Panel* has decided to refer an *allegation* to the *determination by consent procedure* to be finally determined as a charge of professional misconduct, an *authorised decision-maker* or an *Independent Decision-Making Panel* (as the case may be) may terminate the *determination by consent procedure* at any time if they no longer consider that the requirements of regulation 15.2 are satisfied, or for any other good reason.

15.4 An *Independent Decision-Making Panel* may impose on an *applicable person against* whom a charge of professional misconduct has been found proved under the *determination by consent procedure,* any one or more the following:

(a) an order to pay a fine to the *BSB* (the amount of such fine to be determined having regard to the relevant sanctions guidance) on such terms as to payment as the *Independent Decision-Making Panel* thinks fit;

(b) the imposition of any conditions on their licence or authorisation (where appropriate);

(c) a reprimand by the *BSB*;

(d) advice by the *Independent Decision-Making Panel* as to their future conduct; and

(e) an order to complete (or, in the case of a *BSB entity*, an order to procure that any relevant *managers* or employees complete) continuing professional development of such nature and duration as an *Independent Decision-Making Panel* shall direct and to provide satisfactory proof of compliance with this order to the *BSB*.

15.5 In determining what sanction, if any, to impose under the *determination by consent procedure,* an *Independent Decision-Making Panel* shall have regard to the *Sanctions Guidance* and any relevant policy or guidelines issued by the *BSB* or by *BTAS* from time to time.

15.6 An *Independent Decision-Making Panel* may not make an award of costs when dealing with an *allegation* under the *determination by consent procedure*.

15.7 The *BSB* must publish any finding and sanction and a report of the decision resulting from the *determination by consent procedure* on its website within 14 days unless, on an application by the *applicable person*, an *Independent Decision-Making Panel* directs that it is not in the public interest to publish the finding or sanction or report of the decision.

15.8 The *BSB* must not publish any finding or report of the decision resulting from the *determination by consent procedure* on its website where all the charges have been dismissed, unless the *applicable person* so requests.

15.9 If the *determination by consent procedure* fails to conclude with a finding and sanction to which the *applicable person* consents, then an *allegation* may be referred to a three-person *Disciplinary Tribunal*.

15.10 If the *applicable person* accepts the outcome of the *determination by consent procedure*, no one may appeal against it.

16. *Disciplinary Tribunal*

16.1 Where a referral is made by an *authorised decision-maker* or an *Independent Decision-Making Panel* to the *Disciplinary Tribunal* for *disciplinary action*, such *disciplinary action* will be conducted in accordance with such procedures as the *BSB* may prescribe from time to time in these Regulations or the BSB Disciplinary Tribunals Regulations 2027.

16.2 At the same time as *referring* an *allegation* to form the subject matter of a disciplinary charge or a *disqualification application* before a *Disciplinary Tribunal*, an *authorised decision-maker* or an *Independent Decision-Making Panel must* decide whether a three-person panel or a five-person panel is to be constituted.

16.3 In reaching a decision under regulation 16.2, an *authorised decision-maker* or an *Independent Decision-Making Panel* shall consider the sanction which it considers is likely to be imposed on the *applicable person* if the charge or *disqualification application* is proved, having regard to:

(a) the *Sanctions Guidance*; and

(b) the previous disciplinary record of the *applicable person*.

16.4 In reaching a decision under regulation 16.2, an *authorised decision-maker* or an *Independent Decision-Making Panel* may only decide that a five-person panel is to be constituted if it considers:

(a) that the *allegation* involves a conviction for dishonesty or deception; or

(b) having regard to the *Sanctions Guidance,* that in all the circumstances one of the following sanctions is likely to be imposed:

(i) a sanction of disbarment or *suspension* from *practice* for more than twelve months;

(ii) a sanction of indefinite *disqualification* or *disqualification* for a defined term of more than twelve months; or

(iii) a sanction of a *BSB entity* having its authorisation or licence revoked or *suspended* for a period of more than twelve months.

16.5 An *authorised decision-maker* or an *Independent Decision-Making Panel* must inform the *applicable person* of the decision that it has made pursuant to regulation 16.2.

16.6 There is no appeal against the decision under regulation 16.2 to refer a matter to a three or a five-person panel.

16.7 An *authorised decision-maker* or an *Independent Decision-Making Panel* may:

(a) refer to the same *Disciplinary Tribunal* any *allegations* or *disqualification applications* relating to one or more *applicable person* which they consider may conveniently be dealt with together; and

(b) refer any additional *allegations* or *disqualification applications* relating to the same *applicable person* to the *Disciplinary Tribunal* which is dealing with the original *allegation* or *disqualification application* (as the case may be).

16.8 When an *authorised decision-maker* or an *Independent Decision-Making Panel* has decided that an *allegation* shall form the subject matter of a charge or *disqualification application* before a *Disciplinary Tribunal*, the *BSB* is responsible for bringing the charge or *disqualification application* and pursuing that charge before such *Disciplinary Tribunal*.

17. Appeals from *administrative sanctions*

17.1 An appeal from a decision by an *authorised decision-maker* or an *Independent Decision-Making Panel* to impose an *administrative sanction* is to an appeal panel nominated by the *President* in the same composition as a three-person *disciplinary tribunal* panel constituted under regulation 13.3 of the BSB Disciplinary Tribunals Regulations 2027.

17.2 If an *applicable person* wishes to appeal a decision in accordance with regulation 17.1, they must send to the *BSB* within 28 days of the imposition of the *administrative sanction*:

(a) a written notice of appeal identifying the decision they wish to appeal, their grounds of appeal and the outcome they are seeking; and

(b) a written statement confirming whether the *applicable person* requires their appeal to be disposed of at an oral hearing.

17.3 The notice of appeal must be accompanied by an appeal fee as set by the *BSB* from time to time.

17.4 If the *applicable person* does not expressly request an oral hearing, the appeal will be dealt with by the appeal panel on a review of the papers.

17.5 Where the appeal is to be dealt with by an appeal panel on the papers, the *BSB* will provide *BTAS* and the *applicable person* with a paginated bundle of the correspondence and other documents on its files which are material to the original decision as soon as reasonably practicable.

17.6 Where the appeal is to be dealt with by an appeal panel at an oral hearing then:

(a) at least 5 working days before the hearing, the *BSB* will provide *BTAS* and the *applicable person* with a paginated bundle of the correspondence and other documents on its files which are material to the original decision; and

(b) the *applicable person* and the *BSB* may be represented at the hearing.

17.7 The appeal is a review of the original decision, not a re-hearing, and the appeal panel must decide whether or not to set aside or to vary the original decision.

17.8 If the appeal panel allows the appeal in whole or in part, the appeal panel may direct that any administrative fine or appeal fee already paid by the *applicable person* be refunded either in whole or in part, but the appeal panel has no power to award costs.

17.9 The decision of an appeal panel is final and shall not be subject to any further appeal or reconsideration.

18. Reconsideration of decisions

18.1 Where an administrative error, accidental slip or omission in, or in relation to, any decision under these Regulations comes to the attention of the *BSB* or an *Independent Decision-Making Panel*, an *authorised decision-maker* or an *Independent Decision-Making Panel* may correct the error without the need to undergo a reconsideration under this regulation.

18.2 An *authorised decision-maker* or an *Independent Decision-Making Panel* may reconsider any decision made by an *authorised decision-maker* or an *Independent Decision-Making Panel* respectively under these Regulations in relation to an *allegation*:

(a) where new evidence becomes available which leads it to conclude that it should do so; or

(b) for some other good reason.

18.3 Prior to reconsideration of a decision of an *Independent Decision-Making Panel* under regulation 18.2, the Chair or Vice-Chair of the *Independent Decision-Making Body*, or another single member nominated by the Chair or Vice-Chair will:

(a) decide whether the criteria for reconsideration in regulation 18.2 are met; and

(b) if the criteria are met, refer the decision to an *Independent Decision-Making Panel* for reconsideration.

18.4 The decision under regulation 18.2 is final.

18.5 Following any reconsideration, an *authorised decision-maker* or an *Independent Decision-Making Panel* may make any decision or take any further or different action under these Regulations as they think fit, as if any earlier decision had not been made.

19. Confidentiality

19.1 The *BSB* must keep *reports* and *allegations* assessed or investigated under these Regulations confidential and must not disclose the fact that a *report* exists, or details of the *report* or of its treatment as an *allegation* or otherwise, or of its *disposal* save as specified in the *Enforcement Regulations* or as otherwise required by law.

19.2 The *BSB* may disclose or publish information or documents relating to any *report* or *allegation* assessed or investigated under these Regulations:

(a) for the purpose of any of the *BSB's* regulatory functions;

(b) for the purpose of keeping the *applicable person,* or any source of information relating to the *applicable person,* informed of the progress of the consideration of a *report* or *allegation;*

(c) to the extent necessary for the purpose of seeking evidence or information from third parties as part of any assessment or investigation under these Regulations;

(d) for the purpose of publicising any forthcoming public hearing under the Disciplinary Tribunals Regulations 2027;

(e) where the *applicable person* consents;

(f) in response to a request from the selection panel or a member of its secretariat in respect of an application by a *barrister* for appointment as King's Counsel; or from any body responsible for the appointment of judges in respect of an application for judicial appointment; or from some other body or a *BSB authorised individual* for a *certificate of good standing* in respect of a *barrister;*

(g) for the purposes of providing examples of the types of behaviour that may constitute breaches of *regulatory obligations* either externally or internally within the *BSB*, provided that where disclosure occurs in these circumstances although details of the individual *reports* or *allegations* may be published, any relevant party's identities will remain anonymous;

(h) where the *BSB* considers it is in the public interest to do so; or

(i) to the *Commissioner for Conduct* in relation to any reports or allegations of bullying, harassment or sexual harassment, for the purpose of keeping them informed of the progress of the consideration of a *report* or *allegation*.

20. Burden and standard of proof

20.1 In reaching any decision under these Regulations in relation to a *report* or *allegation*, the standard of proof applied by the *BSB*, an *authorised decision-maker* and an *Independent Decision-Making Panel* will be the civil standard of proof, namely the balance of probabilities, except when regulation 20.2 applies.

20.2 An *authorised decision-maker* or an *Independent Decision-Making Panel* must take into account that the criminal standard of proof will apply when referring an *allegation* for disciplinary action under regulation 12.2(e) or regulation 13.2(e) respectively, and apply the criminal standard of proof when deciding a charge of professional misconduct under the *determination by consent procedure,* in relation to:

(a) *an allegation* or charge where the conduct alleged occurred prior to 1 April 2019, including where the same alleged conduct continued beyond 31 March 2019 and forms the basis of a single *allegation* or *charge of* professional misconduct;

(b) whether the *disqualification condition* has been established, in relation to an *applicable person's* alleged breach of duty or other conduct which occurred prior to 1 April 2019, including where the same alleged conduct continued beyond 31 March 2019;

(c) Where facts relating to an *allegation* are in dispute, the burden of proving such facts will rest on the *BSB.*

21. *BSB* strategy, policy and guidance

21.1 In exercising its powers under these Regulations, the *BSB*, any *authorised decision-maker* and any *Independent Decision-Making Panel* must have regard to the *BSB's* enforcement strategy and any published *BSB* policy and guidance that appear to be relevant.

22. Relationship with other *BSB* regulations

22.1 Nothing in these Regulations will prevent the immediate operation of the BSB Interim Orders Regulations 2027 or the BSB Health Panel and Procedure Regulations 2027, where appropriate.

Schedule 1

Proceedings and Composition of an *Independent Decision-Making Panel*

1. An *Independent Decision-Making Panel:*

    (a) shall consist of three members of the *Independent Decision-Making Body* and shall have a majority of lay members and one barrister member;

    (b) may, at any time, invite any person to attend an *Independent Decision-Making Panel* meeting in an advisory or consultative capacity.

2. *Independent Decision-Making Panel* meetings:

    (a) may be held in person, by email, by telephone or via video-conference;

    (b) shall be held:

        (i) in private; and

        (ii) at a frequency to be determined by the *BSB.*

3. Decisions of *Independent Decision-Making Panels* must be recorded in writing and provided to the relevant person.