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7 February 2014

Dear Nicholas,

I am writing formally following the recent exchange of letters between the Chief Executive of the LSB and the Chief Executive of the Bar Council about the undertakings given by the Bar Council following the investigation by the LSB into undue influence in a regulatory decision.

The reply from your Chief Executive gave my Board no confidence that the Bar Council properly understands the nature of the undertaking given in the letter from the Bar Council Chief Executive on 30 October 2013 as part of a formal regulatory process. This undertaking was unequivocal – following acceptance, inter alia, that the Bar Council failed to act at all times in a way which was compatible with the principle of regulatory independence and that the Bar Council failed to ensure that the exercise of regulatory functions was, as far as reasonably practical, independent of any representative function – the Bar Council undertook to make this acceptance clear in any discussion of the investigation with third parties.

This undertaking was an important factor in persuading my Board that formal action need not be taken against the Bar Council. We took the commitment of the Bar Council in good faith. The recent press report of your comments on the investigation has now brought into doubt how far the Bar Council is committed to complying with these undertakings.

You are quoted as saying the investigation was “disproportionate”. You are also quoted as saying the LSB made “a mountain out of a molehill”. Your Chief Executive’s letter of 31 January 2014 does not deny that these were quotations.

I cannot conceive that any independent reader could construe these words as acceptance by the Bar Council of its acceptance of the undertaking.

Our anxiety is compounded by the discussions that we have had with the Bar Council on the third formal undertaking (the requirement to ensure that from April 2014 the Practising Certificate Fee (PCF), not the Member Services Fee, funds the process for complaining

about unpaid fees by a solicitor). The Bar Council failed to ensure that this was done for the 2014/15 PCF application, until prompted to do so by LSB staff intervention. It is clear from the email exchanges between the LSB and Bar Council that staff with day-to-day responsibility for implementing the change were not aware of the undertaking; it was only after we highlighted the issue that the Bar Council eventually agreed to make the required changes.

The LSB had originally proposed to publish a statement censuring the Bar Council. We did not take that route because of our belief that you could be trusted to fulfil the undertaking that you had given, as well as the required undertakings proposed by the LSB that you accepted.

I would be grateful to know now what future action you propose to take to ensure compliance with the commitments of the Bar Council.

As this matter was the subject of an LSB announcement, and in view of the fact that your interview is also on the public record, my letter will be placed on the LSB website later today, Friday 7 February 2014.

Yours sincerely

A handwritten signature in black ink, appearing to read "David Edmonds". The signature is written in a cursive, slightly slanted style.

David Edmonds
Chairman