



The Chairman
Nicholas Lavender QC

Mr David Edmonds
Chairman
Legal Services Board
One Kemble Street
London
WC2B 4AN

18 February 2014

Dear David,

Thank you for your letter of 7 February 2014.

I am concerned at the way in which you have interpreted the report of my comments to a journalist.

In Stephen Crowne's letter of 30 October 2013 to Chris Kenny, he confirmed that the Bar Council had accepted what it understood to be the findings set out in the report produced following the LSB's investigation and stated that "We undertake to make this acceptance clear in any discussion of the investigation with third parties."

In compliance with that undertaking, when I spoke to the journalist in question, I stated that we had said in Stephen Crowne's letter that we accepted the findings and that I was not resiling from that. As you may be aware, the journalist has now reported my statement to this effect.

Another matter which you mention in your letter concerns the Bar Council's fees collection service. This is a rather technical point and is addressed in an annex to this letter.

You ask what future action we intend to take to ensure compliance with our commitments to the LSB. I can assure you that we have acted and will continue to act in good faith in relation to those commitments. For example, the proposals which we undertook to develop were submitted to, and approved by, the LSB and have been drawn to the attention of all relevant staff. The whole of the Bar Council, its Officers and executive are committed to the statutory regulatory objectives, and to securing the regulatory independence of the Bar Standards Board.

The Bar Council

www.barcouncil.org.uk

Yours sincerely,

Nicholas Lavender

Nicholas Lavender QC
Chairman of the Bar Council

Annex

The view was expressed in paragraph 6.12 of the report produced following the LSB's investigation that the process by which a barrister may request the Chairman of the Bar Council to include a solicitor on the list of defaulting solicitors is a regulatory requirement for which no fee may be charged.

Consequently, in Chris Kenny's letter of 13 September 2013 to Stephen Crowne, he stated that one of the desired outcomes was that *"The requirement to pay the Members' Services Fee in order to complain about a solicitor/SRA authorised person is removed and processes are put in place to ensure that those who choose not to pay the fee for other (properly representative) services have identical access to those who do pay."*

This outcome has been achieved, and was achieved independently of the Bar Council's 2014/15 Practising Certificate Fee application. Moreover, it was apparent from that application that the Bar Council did not intend to fund the operation of its fees collection service from the Member Services Fee.

No issues arise, therefore, as to the Bar Council's compliance with the second and third sentences of the third undertaking enclosed with Chris Kenny's letter.

By the first sentence of that undertaking, the Bar Council undertook to *"Implement measures to ensure that the funding of the process whereby a barrister can complain about unpaid fees will only be via the Practising Certificate Fee from April 2014."* This went further than paragraph 6.12 of the report and the statement of desired outcomes, in that it required not only that the fees collection service should not be funded out of the Members Services Fee, but also that the fees collection service could only be funded out of the practising certificate fee (something which in previous years' PCF applications had been considered impermissible) and not out of the Bar Council's other income.

It is right to say that this additional requirement of the first sentence of the third undertaking was overlooked when the 2014/15 PCF application was drafted. However, the requirement was helpfully pointed out by Legal Services Board staff and the application was amended accordingly and approved by the Legal Services Board.