

Sir Andrew Burns
Chairman
Bar Standards Board
289-293 High Holborn
London
WC1V 7HZ



**LEGAL SERVICES
BOARD**

The Chairman's Office
Legal Services Board
One Kemble Street
London
WC2B 4AN

T 020 7271 0043
F 020 7271 0051

www.legalservicesboard.org.uk

15 September 2015

Dear Sir Andrew,

Bar Standards Board undertaking

Thank you for your letters and enclosures of 29 July and 27 August 2015 regarding the BSB's actions in respect of the fourth undertaking, given in November 2013 as part of the informal resolution of the LSB's investigation into the Bar Council and the Bar Standards Board ("BSB"). This material formed the basis for a discussion when my Board met on 8 September.

During that discussion, my Board acknowledged the work completed by the BSB in the course of its review and reminded itself that the review was not about the existence of the cab rank rule in itself, but about whether the standard contractual terms and the list of defaulting solicitors should remain part of the BSB's regulatory arrangements. Although it registered some concerns in the BSB's approach, my Board concluded that the terms of the fourth undertaking could be considered to be discharged and no further, formal enforcement action with respect to the 2013 investigation would be appropriate.

As mentioned, looking beyond the specifics of the undertaking, my Board identified some issues of concern. These include:

- That in its review, the BSB, having concluded on the necessity of a single set of terms in regulatory arrangements, did not consider any sources other than the Bar Council's standard contractual terms.
- That in the course of the review, the BSB did not assure itself on the specifics of the current Bar Council's standard contractual terms, in particular the definition of "authorised person" used in those terms, and whether it reflected the current legal services market. This prompted urgent remedial action to be taken by the BSB after the deadline for complying with the undertaking had passed.
- That the BSB could arrive at different conclusions on the two issues under review with regard to the impact on the regulatory objective of promoting and protecting the public interest in relation to the use of a product of the representative body in the

independent regulator's arrangements. These different conclusions appeared to us to be somewhat in tension.

While the fourth undertaking may now be considered to have been discharged, these issues have directed our attention towards the BSB's approach to regulation more broadly and where the BSB is in its journey towards becoming a modern independent regulator with the requisite capacity and capability. Such broader issues are being considered as part of our current regulatory standards review of the BSB.

I am copying this letter to Stephen Crowne, Chief Executive of the Bar Council.

Yours Sincerely,

A handwritten signature in blue ink, appearing to read 'Michael Pitt', followed by a horizontal line and a small flourish.

Sir Michael Pitt
Chairman