

Direction 108 issued under Part 3 of Schedule 4 to the Legal Services Act 2007 to the Bar Standards Board (BSB)

1. This is a direction issued pursuant to paragraph 19(3) of Schedule 4 to the Legal Services Act 2007 (the Act).
2. Unless stated otherwise, words in this direction are used as they are defined in the Act.
3. In accordance with paragraph 19(3) of Schedule 4 to the Act, the Board has directed that the following alterations by BSB to its regulatory arrangements be treated as exempt alterations for the purposes of paragraph 19(2)(c) of Schedule 4:

BSB Handbook, Part 2, Section C Conduct Rules, Rule rC6

Proposed changes

4. Rule rC6 sets out a barrister's duty not to mislead the court. Currently it includes a requirement not to *permit the court to be misled*. While barristers have a personal duty not to mislead the court, it was never intended that the rules would require them to have a wider responsibility of ensuring that a court is not misled. Indeed such a wider obligation would potentially conflict with a barrister's duty to act in the best interest of clients and to keep clients' affairs confidential.
5. The rule has been amended as follows:

rC6 Your duty not to mislead the court ~~or permit the court not to be misled~~ will include the following obligations:

.1 you must not

- .a make submissions, representations or any other statement; or*
- .b ask questions which suggest facts to witnesses which you know, or are instructed, are untrue or misleading*

.2 you must not call witnesses to give evidence or put affidavits or witness statements to the court which you know, or are instructed, are untrue or misleading, unless you make clear to the court the true position as known by or instructed to you

Reason for exemption direction

6. The amendment is minor and not a change to BSB regulatory policy. It does not alter a barrister's duty not to mislead the court and will remove ambiguity and the risk of conflict with other rules on duties to clients.
7. A copy of the alteration was submitted to the Board on 20 February 2017.
8. This direction is to be deemed made on and to be effective from 27 February 2017.

**For and on behalf of the Legal Services Board
27 February 2017**