

Direction 135 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 Legal Services Board (the Board) has directed that the following alterations to regulatory arrangements be treated as exempt alterations for the purposes of paragraph 19(2)(c) of Schedule 4:

Consequential amendments to the BSB Handbook arising from the BSB Bar Qualification Rules approved by the LSB on 26 February 2019

Proposed amendments

4. There are three amendments to specific sections of the BSB Handbook in order to align them with the BSB Bar Qualification Rules approved by the LSB on 26 February 2019. The first two are shown as track changes below:

Section A: The Complaints Regulations, rE93.7

“Disclosure may be made:

rE93.7 subject to rE94, in response to a request from the selection panel or a member of its secretariat in respect of an application by a barrister for silk; or from anybody responsible for the appointment of judges in respect of an application for judicial appointment; or from some other body or the individual for a certificate of good standing in respect of a barrister; ~~or from one of the Inns of Court in respect of an application from a barrister to become a pupil supervisor~~; or”

Reason for amendment: Under the new Bar Qualification Rules the Inns of Court will have no role in appointing barristers as pupil supervisors or determining their suitability for the role. Instead this will be responsibility of pupillage providers authorised by the BSB (Authorised Education and Training Organisations or AETOs). The BSB’s Bar Qualification Manual will set out that AETOs should, as a minimum, check the BSB’s disciplinary register before appointing a barrister as a pupil supervisor. Alternatively, the barrister can give their consent for the BSB to disclose the barrister’s full disciplinary record to the AETO. The BSB therefore proposes to simply remove the relevant text from its regulatory arrangement rE93.7.

Section B: The Disciplinary Tribunals Regulations, rE218

Whether or not a Disciplinary Tribunal finds any charge or application proved against a barrister who is a pupil supervisor, if the Disciplinary Tribunal considers that the circumstances of the complaint are relevant to the respondent in their

capacity as a pupil supervisor, it may notify the respondent's ~~Inn~~, AETO and/or the BSB of those concerns in such manner as it sees fit.

Reason for amendment: As above, under the new Bar Qualification Rules the Inns of Court will now have no role in appointing barristers as pupil supervisors or determining their (ongoing) suitability for the role. Instead this will be the responsibility of AETOs authorised by the BSB. The BSB therefore proposes to amend rE218 accordingly.

The third change is in respect of the definition of 'pupil supervisor' in Part 6. Definitions section of its Handbook

The current definition of 'pupil supervisor' reads:

"an individual, qualified barrister who has been approved as a pupil supervisor by their Inn of Court, and in accordance with the Bar Training Regulations"

This has been amended to read:

"an authorised individual who has been appointed as a pupil supervisor by an AETO".

Reason for amendment: As above, the Inns of Court will now have no role in appointing barristers as pupil supervisors or determining their suitability for the role, it will be the responsibility of AETOs.

Reason for exemption direction

5. The alterations do not represent a shift in the BSB's regulatory approach or policy. They simply tidy three particular sections of the BSB's Handbook to align them with the BSB Bar Qualification Rules.
6. A copy of the alteration was submitted to the Board on 22 March 2019.
7. This direction is to be deemed made on and to be effective from 28 March 2019.

For and on behalf of the Legal Services Board
28 March 2019