



**His Honour Judge Jonathan Carroll, Chair of the Disciplinary Tribunal
Lady Justice Ingrid Simler, Chair of the Tribunal Appointments Body**

12th March 2021

Dear Judge Carroll and Lady Justice Simler,

We write partly in response to Baroness Blackstone's letter of 18 February 2021 to Ms O'Neill and in respect of other related matters that we address below.

We note that the BSB has commenced consultation and we very much welcome being part of an open and transparent Sanctions Guidance consultation process. We have previously expressed concerns over the handling of harassment cases with the BSB (29 May 2019) when we wrote to Vanessa Davies. Then we specifically raised:

- The quality of case worker support available to any complainant;
- Seeking clarification on the type of training provided to those on disciplinary panels or involved in judgment drafting; and
- Requesting use of Victim Impact Statements/greater consideration of the impact on the complainant as part of the process

We are disappointed that there are still clearly issues with the investigations and sanctions process in this sensitive area. Many barristers have spoken to us about what appears to be a trend indicative of a level of inconsistency in sanctions based on offence. For example, a case where a practising barrister was awarded a more severe sentence for failing to renew a practising certificate, compared to another barrister who sexually assaulted two women at a Bar related social event. Rather perversely and seemingly not reflective of the seriousness of offences, the practising certificate offence received a 4-month suspension as opposed to the sexual assaults receiving a 3-month suspension. Whilst we appreciate that individual cases may not be always be comparable, such examples do give the appearance of being out of step and may understandably give rise to public concern. They are also likely to reduce

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confidence on the part of the public and amongst barristers that the profession is dealing appropriately with allegations of sexual misconduct and harassment.

In advance of any consultation process would it be possible to have an update on the matters raised in our letter of 2019 above.

Further, as part any consultation process, we should also like to know more about the composition of the panels in these cases in terms of sex in particular. The 2019 BTAS Annual Report records that sex parity in respect of the Panel Pool was not achieved for any members including that of barrister. It was then notably, considerably lower (around 20%) for QCs and Clerks.

Whilst BTAS' figures for Panel new appointees were more encouraging (46% of appointees were female and 46% male) for QCs this was still very low (20%). Could you share more recent statistics if available please.

What is being done specifically to address the under-representation of women on these BTAS panels? Additionally, what specific training is being undertaken by panel members to ensure that issues of bias and/or discrimination are being adequately addressed?

We are also interested to understand the ratio of sexual harassment complaints made that progress to investigation and then onto adjudication.

Given concerns expressed almost two years ago around these matters, we would urge BTAS to scrutinise carefully the handling of these types of investigations; more broadly, taking in panel composition, specific training on handling harassment investigations and adjudications.

Yours sincerely,



Derek Sweeting QC
Chair, Bar Council



Elaine Banton
Chair, Equality, Diversity & Social
Mobility Committee (Bar Council)