



# The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

## Service Complaints Policy

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#### **The Bar Tribunals & Adjudication Service**

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## 1. Introduction

- 1.1 The Bar Tribunals and Adjudication Service ('BTAS') is responsible for recruiting; appointing, administering and adjudicating Disciplinary Tribunals, including Tribunals which consider the most serious allegations of professional misconduct against barristers.
- 1.2 In addition to Disciplinary Tribunals, BTAS has similar responsibilities for Fitness to Practise hearings and Interim Suspension Panels for barristers.
- 1.3 BTAS also administers and supports the Inns' Conduct Committee (ICC), a committee responsible for adjudicating on any misconduct issues arising from applications for admission to an Inn of Court or misconduct matters relating to student members of an Inn.
- 1.4 BTAS is committed to providing high standards of service. In doing so it will use best efforts to ensure that it acts in a fair, transparent, proportionate, efficient and non-discriminatory manner towards all. However, it recognises that, on occasion, dissatisfaction may be expressed with the work or conduct of BTAS and/or its employees. It welcomes the opportunity to consider and respond to any concerns that may arise and improve its service, should this be necessary.

## 2. Public Accessibility of this Policy

- 2.1 BTAS is committed to ensuring that its policies and practices are transparent and open to public scrutiny. This Policy shall be published on the BTAS website and is also available on request. Reasonable adjustments for accessing this Policy will be provided on request (*see BTAS Reasonable Adjustments policy*).
- 2.2 BTAS shall, on request, provide reasonable adjustments for individuals when they are required to either provide or access documents under the terms of this Policy (*see BTAS Reasonable Adjustments policy*).

## 3. Scope of this Policy

### Definition

- 3.1 A complaint is made when one or more individuals tell BTAS that they are dissatisfied with the way BTAS has carried out its work and require BTAS to respond or take action.

## Out of Scope

- 3.2 Complaints relating to decisions or the decision-making process of a Disciplinary Tribunal Panel, Fitness to Practise Panel, Interim Suspension Panel or the ICC cannot be made under this Policy. BTAS has no power to reopen, re-examine or otherwise question decisions made by Panel Members and the ICC. If aggrieved individuals are unhappy with the result of their hearing, then they should pursue this through an appeal or review.

## BTAS Employees

- 3.3 This policy is intended to apply to complaints arising from internal practices adopted by BTAS employees. Such issues may include:
- a. Actions or failures to act by BTAS employees in the administration of disciplinary, ICC or any other proceedings, including mistakes or lack of care.
  - b. Unreasonable delays when BTAS employees are providing services.
  - c. Discourteous or unprofessional conduct by BTAS employees.
  - d. Conduct that may amount to unlawful discrimination, harassment or victimisation by BTAS employees.

## Disciplinary Tribunal Panel Members (“Panel Members”) Clerks and ICC Members

- 3.4 Complaints about panel members, clerks or ICC members can only be made under this Policy if they relate to:
- a. Discourteous or unprofessional conduct by panel members, clerks or ICC members.
  - b. Conduct that may amount to unlawful discrimination, harassment or victimisation by panel members, clerks or ICC members.
- 3.5 Complaints relating to:
- a. bias; or
  - b. flaws in appointments; or
  - c. time expiry of terms of appointments

of Panel Members or ICC Members cannot be made under this policy. However, where a hearing is adjourned or a first instance decision is successfully appealed on one of these grounds, BTAS reserves the right to start its own investigation.

## 4. Complaints Relating to Unlawful Discrimination, Harassment or Victimisation

- 4.1 BTAS is committed to avoiding all forms of unlawful discrimination, harassment or victimisation (see BTAS Equality and Diversity Policy). It is of particular importance that BTAS is regarded by barristers, the public and all other stakeholders as carrying out its responsibilities fairly. Thus, BTAS will:
- a. Deal thoroughly and sensitively with complaints relating to unlawful discrimination, harassment or victimisation.
  - b. Annually review any complaints about discrimination, harassment and victimisation and use the findings to improve BTAS' service.

## 5. Service Standards

- 5.1 BTAS provides the following assurances about its complaint handling processes:
- a. Complaints will be taken seriously and dealt with properly under the procedures set out below in Section 7 of this Policy.
  - b. Complaints will be investigated by staff with appropriate skills and experience.
  - c. Complaints will be handled in confidence.
  - d. Complaints will be dealt with as quickly as possible.
  - e. Complainants will be treated with courtesy and respect at all times.
  - f. Where a complaint is upheld, the situation will be remedied.
- 5.2 Whilst BTAS appreciates that some complainants may feel frustrated or dissatisfied with their treatment, there is an expectation that they should remain courteous to members of BTAS staff. Where complainants become discourteous or abusive towards members of BTAS staff, then BTAS reserves the right to restrict its dealings with those persons.

## 6. How and When to Make a Complaint

6.1 Complaints may be made in writing, by telephone or by e-mail. Where the complaint is made by telephone, the member of staff dealing with it will note the details of the complaint in writing either during or immediately after the conversation. They will record:

- The name and address of the complainant;
- The date of the complaint;
- Against whom the complaint is made;
- The detail of the complaint; and
- What the complainant believes should be done about the complaint.

6.2 BTAS will only consider complaints made within six months of the action complained of. Exceptions will be made to this where reasonable excuse for the delay can be shown; for example, illness, or the complainant only became aware of the actions about which s/he is complaining after the expiry of the six month period.

6.3 BTAS will not investigate a complaint where:

- a. Another complaint has previously been made to us about the same issue; or,
- b. It is thought to be frivolous, vexatious or malicious.

## 7. BTAS' Response to Complaints Received

7.1 Any reference to “the relevant person” in the section below means:

- i. the Registrar of BTAS (“the Registrar”) where the complaint relates to BTAS Staff, Panel Members and ICC Members; or,
- ii. a Sub/Under Treasurer of one of the Four Inns of Court (“The Sub/Under Treasurer”) where the complaint relates to the Registrar. The President of COIC (“The President”) shall appoint a Sub/Under Treasurer to consider such complaints. If the complainant is a member of an Inn of Court, the complainant may request the President to appoint a Sub/Under Treasurer from an Inn other than their own to consider the complaint.

7.2 The complaint shall be passed to the relevant person within 1 working day of its receipt. The relevant person will then send a letter, acknowledging receipt to the complainant, within 3 working days of this. That letter will confirm that the relevant person is dealing

with the matter and will, where appropriate, ask the complainant to confirm or explain further the details of their complaint. The complainant will have 7 working days in which to do this.

- 7.3 BTAS will open a separate file for the complaint within two days of its receipt.
- 7.4 The relevant person will start to investigate the complaint within 3 working days of the complainant's response to her/his acknowledgement of receipt. If no response is required or made, the relevant person will, in any case, start to investigate the complaint within 10 working days of her/his acknowledgement of receipt. The relevant person shall inform the complainant that s/he has commenced his or her investigation and that this will be completed within 28 working days.
- 7.5 The relevant person will write a letter to the complainant explaining their findings and, where the complaint is upheld, their suggested remedy, within 7 working days of the conclusion of the investigation.
- 7.6 If, after the conclusion of the investigation, the complainant still feels that the matter has not been satisfactorily resolved then s/he must formally inform the relevant person in writing that s/he wishes for the complaint to be reviewed. The complainant has 14 working days from the receipt of the letter described in paragraph 7.5 in which to submit this to the relevant person:  
  
The letter should contain brief reasons why the complainant remains dissatisfied.
- 7.7 Where the complaint relates to BTAS Staff, Panel Members or ICC Members, the relevant person will pass this document on to the Sub/Under Treasurer within 2 working days for him/her to review. Where the complaint relates to the Registrar, the relevant person will pass this document on to the President for him/her to review.
- 7.8 The Sub/Under Treasurer/President will then have 14 working days in which to conduct his or her review and write to the complainant confirming BTAS' final position.
- 7.9 The complainant is entitled, at any time throughout the complaints procedure, to withdraw their complaint. If so, s/he must notify the relevant person in writing.

## 8. Complaints about Pool Members and ICC Members

- 8.1 If a complaint is made about a Pool Member or ICC Member in relation to her/his conduct during a case, either before or while that individual sits on a hearing, that person can sit on Disciplinary Tribunals while and after the matter is resolved.
- 8.2 In exceptional circumstances where the complaint involves allegations of behaviour that would amount to gross misconduct, BTAS reserves the right to remove the Panel Member or ICC Member complained of from all cases s/he is currently involved in and suspend him/her from duties whilst the matter is being investigated. The Registrar will decide whether the behaviour complained of would amount to gross misconduct and whether this warrants removal from cases and/or suspension from duties.
- 8.3 If a person complained of is removed before a hearing:
  - a. If a Disciplinary Tribunal, an alternative member will be nominated by the President under rE148 of the Disciplinary Tribunal Regulations (Part 5 of the BSB Handbook (3<sup>rd</sup> Edition November 2017)). Both the Bar Standards Board (“BSB”) and the barrister will be notified in writing.
  - b. If an ICC Hearing, an alternative member will be nominated by the Chairman of the ICC under Regulation 22 and 24 of the ICC Rules 2017. Both the relevant Inn of Court and the barrister will be notified in writing.
- 8.4 If an individual complained of is removed in circumstances described in paragraph 8.2 from a case in which s/he is sitting in during the substantive hearing:
  - a. Where the individual forms part of a five-person Disciplinary Tribunal panel, the hearing will continue if rE149 of the Disciplinary Tribunal Regulations (Part 5 of the BSB Handbook) applies, otherwise the hearing will be adjourned, and the matter will be reheard in full. Both the BSB and the barrister will be notified in writing.
  - b. Where the individual forms part of a three-person Disciplinary Tribunal panel, the hearing will be adjourned, and the matter will be reheard in full. Both the BSB and the barrister will be notified in writing.
  - c. Where the individual forms part of an ICC Hearing, the hearing will be adjourned, and the matter will be reheard in full. Both the relevant Inn of Court and the barrister will be notified in writing.

## 9. Resolutions and Remedies

- 9.1 When a complaint is properly brought within the scope of this Policy, as outlined in Section 3, BTAS' priority is to achieve a satisfactory outcome for the complainant and to agree a practical and simple way to resolve the problem. This may occur before or after the completion of the complaints procedure outlined in Section 7 above.
- 9.2 Where a complaint is resolved before the completion of the complaints procedure, the terms of this resolution will be confirmed, in writing, to the complainant and the complaint will be regarded as withdrawn on the terms agreed.
- 9.3 Where a complaint is upheld or partially upheld, BTAS will use best efforts to appropriately remedy the situation.

## 10. Monitoring and Reviews

- 10.1 BTAS will monitor and review its complaints handling processes and procedure and all of its complaints files at least once a year. Appropriate changes to the policy and/or practices will be made where improvements are identified.
- 10.2 BTAS is committed to ensuring high levels of service and will make a written record of any complaint and retain all documents and correspondence generated by the complaint for a period of two years.