

Annex G – Equality Impact Assessment

Date of Assessment	22/11/2016 (Most recent update: 21 May 2019)
Assessor Name & Job Title	Jake Armes (Projects and Operations Officer)
Name of Policy/Function to be Assessed	The proposed Independent Decision-Making Body (IDB) which will replace the currently existing Professional Conduct Committee and Authorisation Review Panels.
Aim/Purpose of Policy	<p>The IDB will consist of a pool of members from which IDB panels will be convened. The IDB panels will take all regulatory decisions requiring independent input and therefore, at the point of its creation, it will be empowered to take the following regulatory decisions (i.e. relevant decisions currently taken by the PCC or Authorisation Review Panels):</p> <ol style="list-style-type: none"> 1. Decisions on whether to refer allegations of professional misconduct to disciplinary action following a formal investigation and, where appropriate, decisions on whether to impose administrative sanctions (currently taken by the Executive and the PCC); 2. Final decisions under the Determination by Consent procedure (DBC) (currently taken only by the PCC); 3. Decisions on appeals against authorisation outcomes and reviews of decisions on waivers from the Handbook requirements (currently taken only by Authorisations Review Panels); 4. Appeals against decisions to authorise entities (currently taken only by Authorisations Review Panels); and 5. Appeals against Inns of Court Conduct Committee decisions (currently taken only by Authorisations Review Panels). <p>The Executive will take most regulatory decisions, but the IDB will be used to provide independent decisions in the more serious enforcement cases and in relation to reviews/appeals of authorisation decisions.</p> <p>We recognise that the Executive will require expert advice on cases from time to time. Such advice is currently provided to Authorisations Review Panels by APEX members. The intention is that all legal/practitioner advice, including that required for enforcement cases, will under the new arrangements be sourced via APEX. Where advice is required on enforcement cases that falls outside the knowledge of both staff and APEX members, we intend to source advice from relevant specialists in the profession on an ad hoc basis.</p> <p>Under the proposed new arrangements, the intention is that the Executive will in most cases prepare summary reports required to support IDB panel decision-making. This will, in line with good practice, leave the IDB to be solely a decision-making body with no responsibility for case preparation. IDB panel members can be provided with an electronic copy of the full case file in advance of the panel meeting and the file will be available via the same means at IDB meetings.</p> <p>The proposal to provide IDB panel members with the full file is a significant change. We are of the view that anonymising the identity of the person who made the report throughout the case papers (as opposed solely to doing so in the covering case report as is currently the case) would have a detrimental impact on panels' ability to understand the case papers and take effective decisions. We therefore intend to continue anonymising the name and gender of the</p>

professional subject to an allegation, but we do not intend to anonymise the name and gender of the person who made the report. This use of personal data will be reflected in the Privacy Statement provided to people who make reports to us. There may be exceptional circumstances where the anonymisation of the person who made the report becomes necessary, either due to an appropriate request by the person themselves in line with our policy on anonymity or because of the circumstances of the case. In these situations, we will redact the name of the person who made the report from the file manually. This is an extreme time commitment and we do not foresee doing this often.

With the introduction of small panels to take decisions, we consider that it will be cost effective and efficient to hold IDB panel meetings once a week, or at least once every fortnight. Therefore, the number of cases considered by an IDB panel will be fewer than that considered by the PCC at its current, less frequent meetings. Further, the reduced volume of cases considered by IDB panels, will allow for more detailed and informed discussions as well as improving the recording of specific reasoned decisions on each case. The use of remote meeting facilities, and small panels, will create more opportunities for those who live outside London, both lay and barrister, to be involved in the BSB's regulatory decision-making system. It will also make it easier for those with disabilities or caring responsibilities to participate. These are significant benefits which will assist in promoting greater diversity in the range of people who are able to participate in the BSB's regulatory decision-making.

1. Evidence

What evidence will you use to assess impact on equality?

- A public consultation
- The design process will consider equality impacts throughout
- A pilot will be conducted
- A Task Completion Group will be established and all design elements presented to them
- Anonymisation research
- Build upon previous research into the impact on ethnicity and gender
- Authorisations Governance project will feedback to IDB project

2. Impact on Equality

Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).

Race	<p>Potential negative impacts</p> <ul style="list-style-type: none"> - Smaller panels may be less diverse due to the smaller number of people in the room at the time of the decision, though it is likely that the panel itself will now be drawn from a more diverse pool. The reduced travel requirements, both in terms of time, distance and cost, will help broaden the potential base from which panelists can be drawn. - Removal of anonymisation may allow for unconscious bias in decision making, though the research we have gathered suggests that the main impact of unconscious bias in decision making is against the subject of the report and the subject will continue to be anonymised. Redacting subjects and reporters would render case papers unintelligible. An external redaction service would not be able to capture the nuance of lengthy case papers. We have chosen to present entire case papers to panels to facilitate better decision making, with redacted subjects, rather than present fully redacted case summaries which would inhibit good decision making <p>Potential positive impacts</p> <ul style="list-style-type: none"> - By paying APEX and panel members we might increase the likelihood of panel members coming from lower paid areas of the Bar and other professions (See Annex 1 to this document). We expect this may open-up the possibility of a higher proportion of BAME panel members. - Currently a disproportionate weight is given to the single member of the Professional Conduct Committee who presents a summary of the case to the rest of the Committee, potentially allowing for increased bias. Removing the role of this case presenter at meetings may eliminate this influence. - We may get greater transparency due to the detailed reasons for a decision and the panel.
Gender	<p>Potential negative impacts</p> <ul style="list-style-type: none"> - Smaller panels may be less gender balanced due to the smaller number of people in the room at the time of the decision, though it is likely that the panel itself will now be drawn from a more gender balanced pool. - Removal of anonymisation may allow for unconscious bias in decision making, though the research we have gathered suggests that the main impact of unconscious bias in decision making is against the subject of the report and the subject will continue to be anonymised. <p>Potential positive impacts</p> <ul style="list-style-type: none"> - There may be greater transparency due to the detailed reasons for a decision and having the full file before deciding allows for gender-based factors (i.e. in cases relating to sexual assault) to be accommodated more easily. - By paying APEX and panel members, and allowing for the use of remote meeting facilities, we might increase the likelihood of panel members with caring and childcare responsibilities becoming involved in our regulatory decision making (See Annex 1 to this document). - Currently a disproportionate weight is given to the single member of the Professional Conduct Committee who presents a summary of the case to the rest of the Committee, potentially allowing for increased bias. Removing the role of this case presenter at meetings may eliminate this influence.
Disability	<p>Potential negative impacts</p>

	<ul style="list-style-type: none"> - Electronic paper provision may have impacts on individuals with visual impairments, this will need to be considered and mitigated through the IT solution implemented. - The size of the file may make it harder for some disabilities to be accommodated, we will have to put procedures in place to accommodate different formats of file. - Removal of anonymisation may allow for unconscious bias in decision making, though the research we have gathered suggests that the main impact of unconscious bias in decision making is against the subject of the report and the subject will continue to be anonymised. <p>Potential positive impacts</p> <ul style="list-style-type: none"> - The use of a remote meeting system may allow for greater accessibility for panel members with certain forms of disability. - Greater transparency due to the detailed reasons for a decision and having the full file before making a decision may allow for non-visible disabilities to be accommodated more easily and any consequent unconscious biases to be identified. - Currently a disproportionate weight is given to the single member of the Professional Conduct Committee who presents a summary of the case to the rest of the Committee, potentially allowing for increased bias. Removing the role of this case presenter at meetings may eliminate this influence. - We may get greater transparency due to the detailed reasons for a decision and the panel.
Age	<p>Potential negative impacts</p> <ul style="list-style-type: none"> - The system will have a greater reliance on IT and the proposal is intended to be, as far as possible, paperless. This may cause problems for panel members who are less familiar with IT systems. We will need to ensure adequate training, including unconscious bias training, is given to users and accommodations are made where necessary. - Removal of anonymisation may allow for unconscious bias in decision making, though the research we have gathered suggests that the main impact of unconscious bias in decision making is against the subject of the report and the subject will continue to be anonymised. <p>Potential positive impacts</p> <ul style="list-style-type: none"> - Currently a disproportionate weight is given to the single member of the Professional Conduct Committee who presents a summary of the case to the rest of the Committee, potentially allowing for increased bias. Removing the role of this case presenter at meetings may eliminate this influence. - We may get greater transparency due to the detailed reasons for a decision and the panel.
Sexual Orientation	<p>Potential negative impacts</p> <ul style="list-style-type: none"> - Removal of anonymisation may allow for unconscious bias in decision making, though the research we have gathered suggests that the main impact of unconscious bias in decision making is against the subject of the report and the subject will continue to be anonymised. <p>Potential positive impacts</p> <ul style="list-style-type: none"> - Currently a disproportionate weight is given to the single individual presenting the Case Report to the panel, potentially allowing for increased bias, removing the role of a case presenter at meetings may eliminate this influence. - We may get greater transparency due to the detailed reasons for a decision and the panel.

Religion/Belief	<p>Potential negative impacts</p> <ul style="list-style-type: none"> - Removal of anonymisation may allow for unconscious bias in decision making, though the research we have gathered suggests that the main impact of unconscious bias in decision making is against the subject of the report and the subject will continue to be anonymised. <p>Potential positive impacts</p> <ul style="list-style-type: none"> - Smaller panels means the members sit less often which may allow greater flexibility for religious observance. - Remote attendance allows greater flexibility for religious observance. - Currently a disproportionate weight is given to the single member of the Professional Conduct Committee who presents a summary of the case to the rest of the Committee, potentially allowing for increased bias. Removing the role of this case presenter at meetings may eliminate this influence. - We may get greater transparency due to the detailed reasons for a decision and the panel.
Gender Reassignment	<p>Potential negative impacts</p> <ul style="list-style-type: none"> - Removal of anonymisation may allow for unconscious bias in decision making, though the research we have gathered suggests that the main impact of unconscious bias in decision making is against the subject of the report and the subject will continue to be anonymised. <p>Potential positive impacts</p> <ul style="list-style-type: none"> - Currently a disproportionate weight is given to the single member of the Professional Conduct Committee who presents a summary of the case to the rest of the Committee, potentially allowing for increased bias. Removing the role of this case presenter at meetings may eliminate this influence. - We may get greater transparency due to the detailed reasons for a decision.
Pregnancy/ Maternity	<p>Potential negative impacts</p> <ul style="list-style-type: none"> - Removal of anonymisation may allow for unconscious bias in decision making, though the research we have gathered suggests that the main impact of unconscious bias in decision making is against the subject of the report and the subject will continue to be anonymised. <p>Potential positive impacts</p> <ul style="list-style-type: none"> - The use of a remote meeting system may provide greater access for those with dependents and those who are pregnant. - Currently a disproportionate weight is given to the single member of the Professional Conduct Committee who presents a summary of the case to the rest of the Committee, potentially allowing for increased bias. Removing the role of this case presenter at meetings may eliminate this influence. - We may get greater transparency due to the detailed reasons for a decision.
Marriage and Civil Partnership	<p>Potential negative impacts</p> <ul style="list-style-type: none"> - Removal of anonymisation may allow for unconscious bias in decision making, though the research we have gathered suggests that the main impact of unconscious bias in decision making is against the subject of the report and the subject will continue to be anonymised. <p>Potential positive impacts</p> <ul style="list-style-type: none"> - Currently a disproportionate weight is given to the single member of the Professional Conduct Committee who presents a summary of the case to the rest of the Committee, potentially allowing for increased bias. Removing the role of this case presenter at meetings may eliminate this influence.

	- We may get greater transparency due to the detailed reasons for a decision and the panel.
Other Identified Groups	<p>Potential positive impacts</p> <ul style="list-style-type: none"> - Currently barrister Case Examiners provide advice and are PCC members pro-bono, a move to a system which includes paid APEX advisers and panel members may open-up the system to a greater range of socio-economic backgrounds, in particular practitioners working in Crime or Family law as well as other publicly funded areas of the Bar which are typically less well remunerated. - Smaller panels means the members sit less often which allows greater flexibility for carers

How does the policy advance equality of opportunity?
<p>The system allows for a greater range of practitioners to sit as APEX advisers and panel members, this has the impact of advancing access to the system for lower paid members of the Bar. The consequence of this is expected to be that the number of individuals advising on cases with a publicly funded background increases, allowing for faster consideration times for matters that fall in to those categories and a greater depth of understanding applied to those categories of cases.</p> <p>A reduction of a reliance on travel has similar benefits for prospective IDB panel members, who can be members of the Bar or lay members, but this additionally removes travel burdens on those with disabilities, those with parental responsibilities, those who are carers and allows for a greater geographic spread in the membership of the decision making body.</p>

How does the policy promote good relations between different groups?
<p>By making it easier for people to become members of our decision making pool, particularly those noted in the sections above, we are able to increase the likely diversity of the pool. This means that the people making decisions are more likely to be from a range of backgrounds. This also ensures that a variety of voices are heard when the pool meets for periodic training sessions and when feedback on the process is sought from the pool.</p> <p>The use of smaller, three or five person, panels means that voices in the room during panel meetings are heard more easily and more fully. It becomes less likely that an individual's perspective will be lost in the crowd.</p>

3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	X
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	

d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	
Reason for decision:		
We have made considerable efforts to accommodate for and mitigate against the negative impacts set out within this document, this has been achieved through the use of policies and guidance, changes to the design of the system and planning a considerable amount of related training.		

4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale
Further research	Confirm or falsify assumptions made and make changes in line with the results	Jake Armes IDB Project Team	Before October 2017
Unconscious bias training and E&D training more generally	To ensure decision-makers are aware of their responsibilities and to mitigate the risk of unconscious bias.	IDB project team	Before October 2019
Reasonable adjustments to be clearly recorded on the database in respect of all relevant parties	To ensure staff are aware of reasonable adjustments that need to be made	Alex Williams	Being developed as part of the organisation's new IT infrastructure
Relevant requirements of IDB membership and staff to be fed in to the IM Programme	To ensure the IT solution is suitable	Jake Armes IDB Project Team	Being developed as part of the organisation's new IT infrastructure

Appendix 1

% OF BARRISTERS BY SALARY BAND – Ethnicity

This table shows the percentage of barristers who have an income within the given band and who are BAME or White, this is further broken down by year of call band.

<i>Income band and year of call band</i>	<i>BAME</i>	<i>White</i>
0	25%	75%
10-15 years	0%	100%
15+ years	33%	67%
£0 - £30,000	24%	76%
Under 5 years	21%	79%
10-15 years	21%	79%
15+ years	24%	76%
5-10 years	33%	67%
£30,001 - £60,000	20%	80%
Under 5 years	15%	85%
10-15 years	20%	80%
15+ years	21%	79%
5-10 years	23%	77%
£60,001- £90,000	16%	84%
Under 5 years	12%	88%
10-15 years	15%	85%
15+ years	17%	83%
5-10 years	15%	85%
£90,001 - £150,000	12%	88%
Under 5 years	9%	91%
10-15 years	12%	88%
15+ years	12%	88%
5-10 years	12%	88%
£150,001 - £240,000	11%	89%
Under 5 years	14%	86%
10-15 years	11%	89%
15+ years	11%	89%
5-10 years	11%	89%
£240,001- £500,000	9%	91%
Under 5 years	14%	86%
10-15 years	12%	88%
15+ years	8%	92%
5-10 years	11%	89%
£500,000 - £1,000,000	7%	93%
Under 5 years	20%	80%
10-15 years	8%	92%
15+ years	7%	93%

5-10 years	5%	95%
£1,000,000 and above	9%	91%
10-15 years	11%	89%
15+ years	8%	92%
5-10 years	13%	88%
N	17%	83%
Under 5 years	15%	85%
15+ years	0%	100%
5-10 years	25%	75%
Grand Total	14%	86%

% OF BARRISTERS BY SALARY BAND – Gender

This table shows the percentage of barristers who have an income within the given band and who are Female or Male, this is further broken down by year of call band.

Income band and year of call band	Female	Male
0	50%	50%
10-15 years	0%	100%
15+ years	67%	33%
£0 - £30,000	46%	54%
Under 5 years	45%	55%
10-15 years	63%	37%
15+ years	40%	60%
5-10 years	55%	45%
£30,001 - £60,000	53%	47%
Under 5 years	52%	48%
10-15 years	65%	35%
15+ years	48%	52%
5-10 years	57%	43%
£60,001- £90,000	42%	58%
Under 5 years	47%	53%
10-15 years	49%	51%
15+ years	38%	62%
5-10 years	50%	50%
£90,001 - £150,000	39%	61%
Under 5 years	41%	59%
10-15 years	44%	56%
15+ years	35%	65%
5-10 years	47%	53%
£150,001 - £240,000	31%	69%
Under 5 years	39%	61%
10-15 years	36%	64%
15+ years	28%	72%
5-10 years	37%	63%

£240,001- £500,000	21%	79%
<i>Under 5 years</i>	27%	73%
<i>10-15 years</i>	26%	74%
<i>15+ years</i>	20%	80%
<i>5-10 years</i>	22%	78%
£500000 - £1,000,000	11%	89%
<i>Under 5 years</i>	20%	80%
<i>10-15 years</i>	6%	94%
<i>15+ years</i>	11%	89%
<i>5-10 years</i>	7%	93%
£1,000,000 and above	9%	91%
<i>10-15 years</i>	11%	89%
<i>15+ years</i>	8%	92%
<i>5-10 years</i>	13%	88%
N	44%	56%
<i>Under 5 years</i>	52%	48%
<i>15+ years</i>	0%	100%
<i>5-10 years</i>	25%	75%
Grand Total	37%	63%