

BAR STANDARDS BOARD

REGULATING BARRISTERS

Appeals against administrative sanctions – Guidance for barristers

1. Introduction

- 1.1. This guidance is intended for barristers who have been subject to the imposition of an administrative sanction for a breach of the BSB Handbook and wish to appeal the decision and/or the level of sanction imposed. The guidance applies to administrative sanctions imposed by the BSB as well as to those imposed by a Panel of the Independent Decision-Making Body.
- 1.2. All administrative sanctions imposed are subject to a right of appeal. The regulations governing appeals are set out at rE54 – rE60 in Part 5: A5 of the BSB Handbook.
- 1.3. Appeals against administrative sanctions are heard by an independent panel appointed by the Bar Tribunal and Adjudication Service ('BTAS' – see www.tbts.org.uk). An appeal is a review of the original decision and is not a re-consideration of the decision.

2. Submitting a notice of appeal

- 2.1. If you wish to appeal a decision to impose an administrative sanction, you must send a notice of appeal to the BSB within 28 days of the imposition of the administrative sanction. The notice of appeal must include:
 - details of the decision being appealed;
 - the decision you believe should have been taken;
 - your grounds of appeal; and
 - whether you are requesting an oral hearing (and if so, your availability to attend a hearing).
- 2.2. The notice of appeal must be accompanied by the appeal fee to defray the expenses of the appeal, currently set at £100. If your appeal is successful, the appeal panel can decide that the appeal fee should be refunded in whole or part.
- 2.3. In exceptional circumstances, the BSB will consider an application to waive the appeal fee. If you wish to request this, you will need to provide evidence of your circumstances and that you do not have the means to pay the appeal fee. The request for a waiver does not affect the 28 day time period set in the regulations, so any request for a waiver should be sent to the BSB within 14 days of receipt of the imposition of the administrative sanction, to enable a decision to be made in time.

- 2.4. If you do not explicitly request an oral hearing, your appeal will be considered on paper.
- 2.5. If your notice of appeal does not contain all the information required in paragraph 2.1. above and is not accompanied by payment of the appeal fee, your notice of appeal will not be considered to be compliant with the regulations (see rE55 and rE56 in Part 5: A5 of the Handbook).

3. Arranging the appeal

- 3.1. When we receive your notice of appeal and the fee, we will acknowledge it and confirm whether all the necessary information and documents have been provided. We will notify BTAS that you have submitted a notice of appeal and provide BTAS with your availability and the relevant Case Officer's availability so that this can be taken into account when BTAS fix the appeal hearing.

4. Procedure before the appeal

- 4.1. The Case Officer will prepare an appeal bundle to be used at the hearing. We will aim to send this to you within 28 days of receiving your notice of appeal. The bundle will contain all the documents relevant to our decision to impose the administrative sanction, correspondence about the decision (and the reasons) for imposing the administrative sanction, and any correspondence and documents that you have submitted as part of your notice and grounds of appeal. After receiving the bundle, if you wish to provide any additional evidence, this should be served in sufficient time in advance of the hearing.
- 4.2. After you have served the notice of appeal, there are no set procedural requirements for steps leading up to the hearing but, where appropriate, the process set out in the Disciplinary Tribunal Rules and the Civil Procedure Rules should be followed. If you wish to rely on a skeleton argument, this should be served no later than 48 hours before the hearing.

5. Appeal hearing

- 5.1. BTAS will write to you to confirm the date of the appeal hearing. A BSB representative will also attend the hearing with the case file to take a note and to be available to answer any questions by the panel, if necessary. If your appeal raises matters of law or the issues are complex, the BSB may choose to be represented by counsel.
- 5.2. The appeal panel will decide whether to uphold, set aside or vary the decision. The appeal panel does not have the power to make an order for costs; however, it may direct that the BSB refund your appeal fee and/or any administrative fine already paid.
- 5.3. Following the hearing, the Chair of the appeal panel is responsible for providing a formal report of the decision to BTAS and in turn, BTAS are responsible for providing a copy of the decision to you and to the BSB.

- 5.4. If the appeal panel decide to uphold the administrative sanction and it requires further action by you (for example, payment of a fine), we will contact you to inform you of the deadline and methods of payment.
- 5.5. If you have any questions about the appeal process, please contact the Case Officer with responsibility for your case at:

Bar Standards Board
289-293 High Holborn
London WC1V 7HZ

Tel: 020 7611 1444

March 2021