



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

General Information

Guidance for Disciplinary Pool Members & Clerks (Revised August 2017)

Contents

Background and Context.....	2
The Council of the Inns of Court.....	2
The Bar Tribunals & Adjudication Service.....	2
The Tribunal Appointments Body.....	3
The Strategic Advisory Body.....	3
The Bar Standards Board.....	4
Key Policies & Procedures.....	4
Pool Membership in Practise.....	5
The BTAS Team.....	5
Location and Timings of Hearings.....	6
Pool Membership.....	6
Serving on a Hearing Panel.....	7
Claiming Expenses.....	8

The Bar Tribunals & Adjudication Service

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Background and Context

The Council of the Inns of Court

1. The [Council of the Inns of Court](#) (COIC) is a long standing committee of the Inns of Court. COIC supports the work of the four Inns of Court ([Lincoln's Inn](#), [Inner Temple](#), [Middle Temple](#) and [Gray's Inn](#)) who provide the majority of COIC's funds.
2. On 1 July 2014 COIC was incorporated as a charity with the objects of:
 - advancing education in the administration and practice of the law including promoting high standards of advocacy;
 - promoting the sound administration of the law.
3. COIC advances the first object principally through the activities of the [Inns of Court College of Advocacy](#) (ICCA) and [The Advocate's Gateway](#).
4. COIC advances the second object through the activities of the Bar Tribunals and Adjudication Service (BTAS).

The Bar Tribunals & Adjudication Service

5. BTAS is the body responsible for appointing and administering:
 - Disciplinary Tribunals for barristers facing charges of professional misconduct;
 - Interim Suspension Panels pending full consideration of a case by a Disciplinary Tribunal;
 - Oral Directions Hearings for Disciplinary Tribunals;
 - Fitness to Practise Panels to determine whether a barrister is medically fit to practise;
 - Appeals against decisions to impose Administrative Sanctions made by the Bar Standards Board (BSB);

All of which are conducted in accordance with the Rules and Regulations set out in the [Bar Standards Board's Handbook](#).

6. It must be understood that BTAS performs an adjudicatory function and is not the professional regulator. This role falls upon the BSB who, in the exercise of this, investigate and prosecute breaches of the Handbook Core Duties and Rules of the Bar of England and Wales.
7. BTAS is wholly independent of the Bar Standards Board. Its relationship with the BSB is governed by a formal Service Agreement which defines the standards and performance expected by one party of the other. This is intended to safeguard the independence of the panels within the disciplinary process.
8. BTAS also has responsibility for appointing and administering:
 - **Inns' Conduct Committee Panels** to consider admission and disciplinary cases brought by the Inns against student members or applicants for admission to an Inn of Court;

in accordance with the [Inns' Conduct Committee Rules](#).

9. In all its work BTAS is committed to:
 - providing a hearings service that is efficient, effective, timely, professional and transparent and one that uses up to date practices and approaches;
 - facilitating high quality decision-making in the public interest; and,
 - being independent and providing clear separation of the adjudicatory function from the role of the prosecutor.

The Tribunal Appointments Body

10. Barrister and lay persons must be formally appointed by the President of COIC as members of the BTAS Disciplinary 'Pool' before they are eligible to serve as a member or clerk of any hearing panel.
11. Through the Appointments Protocol, COIC and the President of COIC have delegated their powers to recruit and select potential panel members and clerks to the independent Tribunal Appointments Body (TAB). This is to further safeguard the independence of the panels and the hearings process.
12. Under the Code of Conduct outlined in the Appointments Protocol, appointees to the COIC Disciplinary Pool ("the Pool") are expected to uphold the 7 Nolan Principles. If it is found that persons are not acting in accordance with these obligations, or they become ineligible to serve as a panel member or clerk for some other reason, the TAB must refer them to the President to consider their removal from the Pool.
13. Additionally, pool members must attend induction and / or refresher training as appropriate, and take part in the mandatory appraisal process. The TAB is required to ensure individual pool members are up to date with these requirements before it may recommend any person for appointment or reappointment to the pool.
14. The TAB is Chaired by a Judge, and made up of a small number of QC, barrister and lay members.

The Strategic Advisory Board

15. The BTAS Strategic Advisory Board (SAB) is a source of independent advice, support and challenge to BTAS and COIC on strategic matters or risks. It is not a decision-making body and does not vote.
16. The SAB's role includes the regular review of key indicators on BTAS' performance levels, and as the first 'port of call' for the BTAS administrative team for comments and guidance on its response to current issues.
17. The SAB has a Lay Chair, and its membership includes lay and legally qualified individuals, and representatives from the Bar Standards Board.

The Bar Standards Board

18. **The Bar Standards Board (“BSB”) was established by the Bar Council in January 2006 to regulate barristers called to the Bar in England and Wales.** As part of this remit, the BSB investigates and prosecutes cases of alleged breach of the Code of Conduct and/or the BSB Handbook by barristers where necessary. It is in this capacity that the BSB has most relevance to COIC Disciplinary Tribunals Pool members.
19. **The BSB’s purpose** is to provide specialist regulation of advocacy and expert legal advice in the public interest, and it is responsible for:
- Setting the education and training requirements for becoming a barrister;
 - Setting continuing training requirements to ensure that **barristers’ skills are maintained** throughout their careers;
 - Setting standards of conduct for barristers;
 - Monitoring the service provided by barristers to assure quality;
 - Handling complaints against barristers and taking disciplinary or other action where appropriate.
20. In accordance with the Legal Services Act 2007, the BSB is required to act in a way which is compatible with the regulatory objectives set out in that Act, which include:
- protecting and promoting the public interest;
 - supporting the constitutional principle of the rule of law;
 - improving access to justice;
 - protecting and promoting the interests of consumers;
 - promoting competition in the provision of legal services;
 - encouraging an independent, strong, diverse and effective legal profession;
 - **increasing public understanding of the citizen’s legal rights and duties;**
 - promoting and maintaining adherence to the professional principles.

Key Policies & Procedures

21. As set out above, all hearings administered by BTAS are held in accordance with documented **rules and regulations, the majority of which form parts of the Bar Standards Board’s Handbook:**
- Disciplinary Tribunals are held in accordance with Part 5 of the Handbook (the ‘**Enforcement Regulations**’), Section B ‘**The Disciplinary Tribunal Regulations**’;
 - Interim Suspension and Disqualification Hearings are held in accordance with Part 5, Section D.
 - Fitness to Practise Hearings are held in accordance with Part 5, Section E.
 - Appeals Against Administrative Sanctions are held in accordance with Part 5, Section A6.

22. Inns' Conduct Committee Hearings are held in accordance with Part 4 of the Handbook (the 'Qualification Rules'), Section B 'The Bar Training Rules' and in accordance with the Inns' Conduct Committee Rules.

23. Other important policies and guidance for members and clerks of the Disciplinary Pool to be aware of are available on the ['Policies' page of the BTAS website](#). These are updated from time-to-time, and are as follows:

Appointments Protocol	Details the process and requirements for appointments to and continuing membership of the TAB and Disciplinary Pool
Data Retention & Disposal Policy	Outlines how long BTAS will retain information and files before their secure destruction.
Disclosure Policy	Sets out BTAS' commitment to openness and transparency of information.
Equality and Diversity Policy	Details how BTAS promotes diversity, equality and inclusion and seeks to eliminate unfair and unlawful discrimination.
Expenses Policy	Defines how reimbursement for out-of-pocket expenses may be claimed; and details of any attendance fees that may be payable.
Information Security Policy	Confirms BTAS' commitment to the Data Protection Act , and outlines how this will be adhered to.
Performance and Appraisal Policy	Sets out the rationale and process for the regular and mandatory appraisal of all those involved with hearing panels.
Publication Policy	Details the policy on the publication of information relating to Tribunals and all hearing panels.
Reasonable Adjustment Policy	Confirms that BTAS will make efforts to ensure accessibility for all involved in the hearing process under the Equality Act 2010.
Recruitment and Selection Policy	Promotes a fair and transparent recruitment process, and sets out the duties of all those involved.
Service Complaints Policy	The mechanism by which BTAS will consider and respond to concerns and complaints about its service or employees.
Vulnerable Witness Policy	Confirms BTAS' commitment to the use of special measures so that vulnerable witnesses can give evidence appropriately.

Pool Membership in Practise

24. The following is intended to introduce BTAS Pool Members to the day-to-day practicalities of being a Panel Member or Clerk, what to expect and how things work in practise. None of what follows is intended to amount to formal guidance and should not be understood as being equivalent to any of the rules or regulations that do apply to Pool Members and are set out elsewhere.

The BTAS Team

25. BTAS' work is supported by a small administrative team:

Margaret Hilson (BTAS Administrator) - is the main point of contact throughout the hearings process. Contact: margaret.hilson@tbtas.org.uk or ring 0203 432 7348.

Andy Russell (BTAS Registrar) – **oversees BTAS’** work, its governance and supporting committees. Contact: andy.russell@tbtas.org.uk or ring 0203 432 7346.

26. All communications about a case with other Pool Members should be done via, or by copy to, the BTAS team. This is so that BTAS is kept aware of all developments, and can ensure a record is kept of the discussions. Pool Members should keep in mind that any and all communications about a case are likely to be disclosable should this be requested by the defendant involved. Pool Members should never seek to contact the BSB, the defendants, or their representatives directly because of the possible perceptions of bias. Even the most innocuous queries must be sent via the BTAS team who will act as intermediaries and so maintain the independence of the Panel.
27. When necessary BTAS is supported in its work by members of the wider COIC staff team (who are conveniently based on the ground floor immediately below the Tribunal Suite).

Location and Timings of Hearings

28. **BTAS is based on the First Floor of 9 Gray’s** Inn Square, London WC1R 5JD; which is referred to as ‘The Tribunal Suite’.
29. The majority of hearings take place in the Tribunal Suite. Sometimes hearings are held in other **locations within Gray’s** Inn, but hearings have taken place elsewhere in central London and potentially could be held further afield if this was necessary. The location of the hearing is contained in the Convening Order sent to the Members of the Panel and the Clerk.
30. Hearings ordinarily start at 10.30am, but Panel Members and Clerks should ensure they have arrived at the hearing venue at least 30 minutes beforehand. Different start times are by no means uncommon though, and again this information is contained in the Convening Order.
31. The duration of the hearing is dependent on the complexity of the case, and factors such as the attendance of the defendant and the number of witnesses. While BTAS hearings usually take **place within ‘court hours’ (and so finish by about 4.30pm) this must not be taken for granted. The timings of a hearing is at the Panel’s discretion and not set out in any rules, and a Panel will sometimes decide it is better to ‘press on’ so that a case can be concluded rather than halting matters for the day and then having to reconvene on some future date.** For this reason Pool members should avoid accepting early evening commitments that may clash. Where other commitments are unavoidable, these should be highlighted to the other Members of the Panel and Clerk as soon as possible so that all are aware of it and can attempt to arrange the proceedings so that it can be accommodated.

Pool Membership

32. All members and Clerks of the Pool are carefully recruited and selected to ensure that they possess and can develop the necessary competencies required for the role. Pool members must

complete mandatory pre-appointment training, and ongoing and refresher training as required, to be eligible for membership of the Pool.

33. Pool Members must be in receipt of a formal appointment letter signed by the President of COIC before they are eligible to act. Appointments are normally for a period of three years, renewable once for another three years if the Pool Member is up to date with training and appraisal requirements.
34. **The TAB will also consider information about a Pool member's availability to attend hearings** before any decision to reappoint them is made. Pool Members are expected to be available to **attend up to five hearings 'days' (whether one long hearing or several shorter ones)** per year, although the average is currently around three.
35. The names of all Pool Members and Clerks, along with a very brief biography, are listed on the BTAS website for the purposes of transparency. No contact details are provided.
36. On appointment, and annually thereafter, Pool Members are required to complete and return a **'conflicts of interest form' to BTAS. However, this should be seen as very much a 'live' process,** and Pool Members must continually consider whether any element of their circumstances is compatible with involvement with a particular case, or indeed membership of the Pool as a whole. If in any doubt Pool members should contact BTAS for advice. If Pool member only becomes aware of a possible conflict midway through a hearing they should immediately declare it so that its significance may be considered before any decisions on the case are reached.
37. **Pool Members must adhere to the 'Nolan Principles' of Standards in Public Life (set out in the *Appointments Protocol*)** and avoid bringing BTAS or COIC into disrepute. Pool Members must immediately notify BTAS of any circumstances that may call their continuing membership of the Pool into question. If necessary, BTAS may have to consider the early termination of an **individual's** appointment.

Serving on a Hearing Panel

38. The first contact Pool Members are likely to have with a case is an availability request for a given date or dates from the BTAS team, by either phone or email. Each contact is logged by the BTAS team to ensure that all Pool members have equal opportunities to act.
39. BTAS appreciates that all members of its Pool have other professional and personal commitments and will not always be available. Please let us know about any longer periods when you will be unable to act (holidays or maternity leave for example) and we will make a note not to contact you then. Ultimately however Pool Members need to serve with a certain regularity simply to retain the necessary skills for their role, and as stated above this is kept in mind by the TAB when determining reappointments to the Pool.
40. Pool members are formally appointed to a given Panel in advance of the hearing. The exact process varies depending on the nature of the hearing, but for Disciplinary Tribunals this is known as a **'Convening Order' which** is distributed about a month before the hearing date.

41. If, at any point after you have agreed to serve on a hearing your availability changes, please let us know immediately. With enough notice BTAS may be able to arrange for a replacement to be appointed, but if not the hearing may have to be adjourned.
42. Approximately two weeks before the hearing you should receive a copy of the files of documents **and evidence ('the bundle') the parties will rely on during the hearing by post. While these are not** sent recorded delivery they are usually too big to fit through a letterbox, so please ensure arrangements can be made to receive them. If you have any queries about the contents please contact BTAS who will liaise with the parties as necessary.
43. Please treat the bundles as confidential.
44. If, on the day of the hearing, you find yourself delayed for any reason please let BTAS know as soon as possible so that we can alert all others involved and minimise confusion and disruption to the hearing.
45. Please ensure you complete and return an appraisal form to BTAS within 10 working days of the completion of the hearing.

Claiming Expenses

46. All Pool Members and Clerks may claim reasonable travel and subsistence expenses for attendance at a hearing by submitting a signed claim form with accompanying receipts.
47. Other expenses, such as overnight accommodation etc, can be claimed in certain circumstances with the prior approval of the Registrar. If you are in any doubt about whether something can be claimed please contact BTAS (before committing to any expenditure) who will be very happy to advise.
48. Lay Pool Members and Clerks may also claim an attendance fee.
49. Full details are set out in the Expense Policy. A copy of the Expenses Claim Form is [available here](#). Payment will be made by BACS usually within a week of submission of the form, so please ensure you keep BTAS informed of any changes to your bank details.