

SOLICITORS DISCIPLINARY TRIBUNAL

RESPONSE TO BAR STANDARDS BOARD
CONSULTATION

REVIEW OF THE STANDARD OF PROOF APPLIED
IN PROFESSIONAL MISCONDUCT PROCEEDINGS

JULY 2017

INDEPENDENT - IMPARTIAL - TRANSPARENT



SOLICITORS DISCIPLINARY TRIBUNAL RESPONSE - BAR STANDARDS BOARD CONSULTATION

REVIEW OF THE STANDARD OF PROOF APPLIED IN PROFESSIONAL MISCONDUCT PROCEEDINGS

Introduction

1. When responding to this and other Consultations, the Solicitors Disciplinary Tribunal ("the Tribunal") must have in mind that it should not make public statements (even in the context of consultation) which might give rise to a complaint at a future date from those appearing before it of predetermination and/or apparent bias. The Tribunal is able to respond to a Consultation highlighting difficulties or issues that have been encountered while sitting to determine cases. That is an appropriate function enabling the Tribunal to pass on knowledge and experience to policy makers. However the Tribunal must not stray outside that parameter.

The observations in this response pay due regard to the Tribunal's overriding objective when managing cases, as expressed in its Practice Direction No. 6, namely to ensure that they are dealt with justly.

2. The Tribunal responds below solely to Consultation Q2. The Tribunal makes no response to Consultation Q1 and Q3. The fact that the Tribunal has responded to Q2 should not be taken as an indication that the Tribunal's answer to Q1 if expressed would be "Yes" (as stated in Q2).

Q2

3. The question posed is: **"If your answer to (1) above is "yes"¹, do you consider that the BSB should only change to the standard of proof if and when the Solicitors Disciplinary Tribunal also does so?"**
4. The Tribunal would not wish its decisions to delay or accelerate the Bar Standard Board's proper reflections on their own rules.
5. The Tribunal will itself, as part of the exercise of bringing forward its proposed new rules, be consulting on the appropriate standard of proof to apply.

Susan Humble

Clerk and Chief Executive Officer

Solicitors Disciplinary Tribunal/Solicitors Disciplinary Tribunal Administration Limited

19 July 2017

¹ Q1 asks: "Do you consider, in principle, that the BSB should change its regulatory arrangements to allow for the civil standard to be applied to allegations of professional misconduct?"