THE CRIMINAL BAR ASSOCIATION

GOVERNANCE PAPER

Complaints, Conduct and Behaviour Policy

Made under Part 12 of the Constitution and clauses 3.12 and 3.13

1. Purpose and Scope

1.1 This Policy establishes the framework for the handling of complaints, conduct concerns, and conflicts of interest within the activities of the Criminal Bar Association ("the Association").

1.2 It operates alongside the Constitution, the Code of Conduct, the Bar Standards Board Handbook, and any safeguarding or wellbeing procedures applicable to the matter.

1.3 This Policy applies to:

(a) conduct undertaken in the name of, on behalf of, or whilst representing the Association;

(b) conduct at meetings, events and gatherings of the Association;

(c) conduct on the digital systems and communications channels of the Association;

(d) public conduct (including on social media) which materially affects the Association or its standing.

1.4 In handling all matters under this Policy the Association shall:

(a) act fairly and proportionately;

(b) maintain confidentiality where appropriate;

(c) avoid assuming regulatory functions reserved to the Bar Standards Board;

(d) support members affected by complaints or conduct concerns;

(e) maintain proper records;

(f) preserve procedural fairness in respect of all parties.

2. Categories of Concern

2.1 Concerns falling within this Policy include:

(a) breaches or alleged breaches of the Code of Conduct;

(b) bullying, harassment, sexual misconduct or discriminatory behaviour;

(c) conduct unbecoming of an Officer, Subcommittee member or member;

(d) misuse of the Association's identity, communications channels or membership data;

(e) breach of confidentiality;

(f) undeclared conflicts of interest.

2.2 Concerns about the regulated professional conduct of a barrister are properly the subject of the Bar Standards Board's jurisdiction. Where such concerns arise, the Officers may refer the matter to the Bar Standards Board notwithstanding any internal proceedings under this Policy.

3. Where to Raise a Concern

3.1 Concerns may be raised, in writing or in person, with:

(a) the Administrator; or

(b) the Secretary.

3.2 A concern involving the Administrator or the Secretary shall be referred directly to the Chair.

3.3 A concern involving the Chair shall be referred to the Vice Chair, or in the Vice Chair's absence to the immediate past Chair.

3.4 Anonymous concerns shall be considered, but the Officers may decline to take action where the absence of identifying information makes meaningful investigation impossible.

4. Initial Handling

4.1 On receipt of a concern, the Administrator or Secretary shall:

(a) acknowledge receipt within five working days;

(b) record the concern in a confidential register;

(c) refer the matter to the Officers for consideration in accordance with this Policy.

4.2 The Officers shall consider each matter and may:

(a) dismiss the concern as outside the scope of this Policy or as without substance;

(b) seek informal resolution between the parties;

(c) establish a Review Panel to consider the matter formally;

(d) refer the matter externally (including to the Bar Standards Board, the relevant Inn of Court, or other appropriate body);

(e) take such interim measures as are reasonably necessary pending further consideration.

5. Informal Resolution

5.1 Where appropriate to the nature and gravity of the concern, the Officers may seek informal resolution by means of:

(a) a private conversation with the persons concerned;

(b) mediated dialogue;

(c) an apology and acknowledgement;

(d) a written undertaking as to future conduct.

5.2 Informal resolution is not appropriate where the concern alleges serious misconduct, criminal conduct, or conduct of a kind described at clause 2.1(b).

6. Review Panel

6.1 A Review Panel shall consist of three persons, being:

(a) a current or former Officer of the Association, who shall chair the Panel;

(b) a current or former member of the Executive Committee; and

(c) a Voting Member of the Association who is not currently an Officer or Executive Committee member.

6.2 No person with an actual or perceived conflict of interest in the matter under consideration shall serve on the Panel. Conflicts shall be declared at the outset and shall result in withdrawal from the Panel.

6.3 The Panel may consult such legal or other expert advice as it considers necessary.

6.4 The Panel shall:

(a) inform the parties of the substance of the concern in writing;

(b) invite written representations from the parties;

(c) invite, where appropriate, oral representations from the parties;

(d) consider relevant evidence;

(e) reach its decision on the balance of probabilities;

(f) communicate its decision in writing, with reasons, to the parties and to the Officers.

6.5 The Panel shall act fairly and proportionately and shall give each party a reasonable opportunity to be heard.

7. Outcomes

7.1 Where a concern is upheld, in whole or in part, the Officers may, on the recommendation of the Panel:

(a) issue an informal expression of concern or guidance;

(b) issue a formal warning;

(c) restrict the participation of the person concerned in the Association's activities;

(d) remove the person concerned from a Subcommittee, Working Group or office held in the Association, in accordance with clause 6.15 of the Constitution;

(e) recommend to the Executive Committee that membership be terminated under clauses 3.12 and 3.13 of the Constitution;

(f) refer the matter to the Bar Standards Board, the Inn of Court, or other appropriate body.

7.2 A decision of the Executive Committee to remove an Officer or member of the Executive Committee under clause 6.15 of the Constitution shall be binding unless set aside by resolution of the Voting Members at a General Meeting.

8. Termination of Membership

8.1 Where it is recommended that membership be terminated, the matter shall be considered by the Executive Committee in accordance with clauses 3.12 and 3.13 of the Constitution.

8.2 A resolution to terminate membership requires a majority of not less than two-thirds of those present and voting. Before any such resolution is put, the member shall be given written notice of the grounds and a reasonable opportunity to be heard.

9. Conflicts of Interest

9.1 In accordance with clauses 12.1 to 12.3 of the Constitution, Officers, members of the Executive Committee, members of Subcommittees and Working Groups, and any other person acting on behalf of the Association shall declare any actual or potential conflict of interest in any matter coming before the body of which they are a member.

9.2 A conflict of interest may arise where:

(a) the person, or a close family member or business associate, has a personal or financial interest in the outcome of a decision;

(b) the person has a professional or commercial relationship with a party affected by a decision;

(c) the person has previously expressed views which create a reasonable apprehension of partiality;

(d) circumstances exist which a fair-minded observer would consider give rise to a real risk of partiality.

9.3 A person declaring a conflict shall withdraw from any decision affecting the matter to which the conflict relates, save where the body concerned, by majority and excluding that person, determines otherwise on the basis that the conflict does not in fact give rise to a real risk of partiality.

9.4 A register of declared interests shall be maintained by the Administrator. The register shall record:

(a) the name of the person declaring the interest;

(b) the date of declaration;

(c) the nature of the interest;

(d) the matter in respect of which the declaration is made;

(e) the action taken (withdrawal, continued participation by majority of body, etc.).

9.5 The register shall be available to members of the Executive Committee on request and shall be reviewed annually by the Officers.

10. Confidentiality

10.1 All matters under this Policy shall be handled in confidence. Information shall be shared only:

(a) with those who need to know it for the purposes of the matter;

(b) with the parties to the matter;

(c) as required by law or by the Bar Standards Board, the Inn of Court, or other appropriate body;

(d) as anonymised reporting to the Executive Committee.

10.2 Confidentiality obligations bind all persons to whom information is disclosed in connection with a matter under this Policy.

11. Records

11.1 The Administrator shall maintain a confidential register of complaints, concerns, declarations of interest and outcomes under this Policy.

11.2 Records shall be retained in accordance with the Information Governance Policy.

12. Review

12.1 This Policy shall be reviewed by the Executive Committee not less frequently than every three years.

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