

Bar Standards Board Fails to Increase Sentence on Appeal

Anthony Speaight QC acted for the successful barrister when the Bar Standards Board failed in an attempt to increase a sentence by an appeal. This was one of the first cases in which the BSB exercised a right to appeal against a sentencing decision of a Bar Tribunal. It complained in this case that a sentence of reprimand was unduly lenient.

Hickinbottom LJ, giving judgment in the Divisional Court of the Administrative Court, said that the BSB had “fallen far short” of making out a case for the High Court to interfere. He said that the Court would always be slow to interfere with the decision of a specialist disciplinary tribunal: such tribunals were selected for their members’ experience, expertise and training in the task, and were particularly well-placed to assess what measures are required to deal with professionals who have misconducted themselves. The primary purpose of professional discipline, he stressed, was not punitive, but to protect and promote public confidence in both the individual practitioner and in the profession as a whole.

The Court considered that it was less than satisfactory that the barrister’s legitimate enquiry as to the basis for the jurisdiction for the appeal had met with no full response until the very day of the appeal. The Court gave guidance that the BSB in an appeal of this character ought to identify a finding of fact, a statement of law or a principle in which it contended that the Tribunal had erred. This was not just to assist the Court but also out of fairness to the respondent whose sanction it was sought to increase.

The Bar Standards Board were ordered to pay costs of £57,000, the full judgment can be accessed [here](#).