

BAR
STANDARDS
BOARD

REGULATING BARRISTERS

Regulatory Operations Department	
Authorisation of Authorised Education & Training Organisations (AETOs) to deliver pupillage/work-based learning	
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1. Introduction

- 1.1 The Bar Standards Board (BSB) is responsible for setting the education and training requirements for becoming a barrister and authorising organisations to deliver Bar training in accordance with the BSB Handbook and criteria in the [Authorisation Framework](#). The rules are set out at Part 4 B3 (rQ29-rQ32) of the [BSB Handbook](#) (see 3.4 below).
- 1.2 This policy relates to decisions taken under rQ32¹ of the BSB Handbook and any particular conditions an AETO may be subject to which are specific to their authorisation.

¹ The conditions of an organisation's authorisation are usually laid out in the authorisation letter and the Training Agreement.

- 1.3 In accordance with rQ31, when taking decisions relating to the authorisation of an organisation as an AETO, the BSB will have regard to the [Authorisation Framework](#) specifically authorisation to provide work-based Bar training (pupillage).
- 1.4 This policy is not concerned with AETO withdrawal, as this is captured by a the [Variation, Amendment, Suspension and Withdrawal of Authorisation as an AETO to deliver pupillage/work-based learning Policy](#)

2. Scope

- 2.1 This document sets out the BSB's policy in relation to decisions by BSB staff to authorise and impose conditions on providers of the pupillage/work-based learning component of Bar Training. Staff applying this policy should read it in conjunction with the internal operational guidance.
- 2.2 This policy applies to staff, AETOs, Pupil Supervisors and Pupils, who should consider it alongside the Authorisation Framework and BSB Handbook and Part 4 of the [Bar Qualification Manual](#).
- 2.3 The policy applies to decisions under rQ31 and rQ32 taken in relation to all organisations authorised² to deliver the pupillage/work-based learning component of Bar Training.

3. Framework for decision-making

- 3.1 Decision-making will be proportionate to the risk(s) identified, in line with the [Better Regulation principles](#)³, and will have regard to promoting the Regulatory Objectives listed at Section 1 of the Legal Services Act 2007. Decisions are taken within the current [Scheme of Delegations](#)
- 3.2 The Authorisation Framework prescribes the criteria that organisations must meet in order to provide education and training for the Bar; that is, to become and remain Authorised Education and Training Organisations. These criteria embody the four key principles:
 - Flexibility;

² For the avoidance of doubt, this policy, and the Handbook provisions, apply to those organisations who deliver pupillage but have not yet been authorised under the Authorisation Framework. This includes, for example, all previously authorised PTOs or ATOs.

³

http://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/20140304_LSB_Education_And_Training_Guidance.pdf

- Accessibility;
- Affordability; and
- High standards.

3.3 Providers of work-based learning (pupillage) will need to [apply](#) for authorisation to do so, in accordance with the Authorisation Framework and BSB Handbook, via [MyBar](#).

3.4 The BSB Handbook⁴ states:

rQ29

Providers of *vocational training* and *pupillage* must be authorised by the *BSB* as an *AETO*.

rQ30

An application to become an *AETO* must be made in such form and be accompanied by payment of such fee or fees as may be prescribed by the *BSB*.

rQ31

In determining an application from an applicant to become an *AETO*, the *BSB* will have regard to the *Authorisation Framework* and in particular the mandatory criteria. The *BSB* will not approve an application to become an *AETO* unless it is satisfied that it is:

- .1 able to meet the mandatory criteria set out in the *Authorisation Framework* relevant to the application; and
- .2 a suitable provider for the purposes of the *Authorisation Framework*.

rQ32

The *BSB* may grant authorisation to an *AETO* on such terms and conditions as it considers appropriate including the period of authorisation

3.5 We aim to determine applications for authorisation as an *AETO* within our agreed Key Performance Indicators (KPIs) which are currently within 12 weeks of receipt of completed application, supporting documentation and associated fee.

4. Decisions taken under rQ31

⁴ At the time of publication, version 4.4.

- 4.1 The BSB’s decision to approve an application to become an AETO will be based on the applicants⁵ ability to demonstrate how it meets the mandatory criteria⁶. In addition, where the provision of evidence is not mandated by the Authorisation Framework then applicants should either “comply or explain” why they either do not require to meet or are unable to meet the criteria. The applicant must demonstrate how it is a suitable provider for the purposes of the Authorisation Framework. Applicants should also have regard to the Guidance Document, particularly the [Conditions of Authorisation](#) detailed within section 2.
- 4.2 The BSB will not approve an application to become an AETO where:
- 4.2.1 An AETO’s failure to meet one or more of the mandatory criteria is so significant that it cannot be appropriately dealt with through an improvement plan. Examples include where an AETO fails to meet one mandatory criterion in a very high-risk way, or fails to meet a high number of the mandatory criteria;
 - 4.2.2 There is a significant likelihood that issues identified will have a fundamental impact on the ability of the AETO to ensure that a high standard of pupillage training is delivered consistently, and that it is compliant with regulatory requirements;
 - 4.2.3 An AETO has not demonstrated a genuine willingness to improve following a previous or existing improvement plan; or
 - 4.2.4 The BSB has any other good reason to believe that that the authorisation of the AETO would inhibit the Regulatory Objectives in another way.
- 4.3 When deciding to refuse an authorisation, the BSB will have regard to the Regulatory Objectives, the key principles of Bar training and the need to act proportionately to address any risk(s) identified. The decision-maker will record their reasons for any decision relating to the suitability of the provider. The AETO will be notified of the outcome and how to request a review of the decision (see section 7 below).

⁵ Applicant being the prospective AETO

⁶ Mandatory criteria being essential to authorisation. Although, the mandatory criteria for authorisation does not need to be met for the application to be approved. In such cases, we would require the AETO to provide an undertaking that they would adhere to the requirements prior to in the improvement plan.

4.4 The decision-maker reserves the right to request additional information and/or to accept representations from the AETO at any point during the assessment process and before issuing a decision.

5. Assessment and Decisions taken under rQ32

5.1 If, during the course of an assessment, a member of BSB staff has concerns which could give rise to a need to impose further conditions on an authorisation, these will be discussed with the AETO as part of the assessment process. The AETO will be given the opportunity to address these concerns before a final decision is issued. Examples of concerns include, but are not limited to:

- the suitability of a barrister to be a pupil supervisor⁷;
- Concerns relating to the quality and standards of training provision

5.2 Should the AETO be unable to address the concerns prior to authorisation, the team may grant authorisation to the AETO on such terms and conditions as it considers appropriate, including providing the AETO with an opportunity to address relevant issues within an agreed timeframe. Any such conditions will be set out in the AETO (WBL) Agreement and Authorisation Letter.

5.3 We may require an AETO to be subject to routine monitoring and supervision, additional conditions being included to the Written Training Agreement such as taking certain action(s) within a prescribed timeframe

5.4 Examples of additional conditions

- A requirement for the AETO to take certain action in order to fully meet the mandatory criteria in the Authorisation Framework, which may include monitoring of an improvement plan by the Supervision Team.
- A requirement for the AETO to ensure that proposed supervisor undertakes refresher training prior to supervising any pupil.

6. Terms and conditions under rQ32

⁷ Section 2 of the [guidance for organisations intending to provide work-based learning Bar training](#) (pupillage) Conditions of Authorisation states “I agree that while the AETO will be responsible for appointing pupil supervisors the BSB may, in its absolute discretion, designate an individual as unsuitable to be a pupil supervisor”

- 6.1 The *BSB* may grant authorisation to an *AETO* on such terms and conditions as it considers appropriate including the period of authorisation⁸.
- 6.2 The team may consider it appropriate to include specific terms and conditions within the Training Agreement. These concerns may not necessarily be reasons to refuse authorisation but ones which the *BSB* will want to address after authorisation has been granted. Conditions will be proportionate. These conditions will seek to address any outstanding concerns usually within an agreed timeframe.
- 6.3 Examples within the [guidance](#) for organisations intending to provide work-based learning Bar training (pupillage), include but are not limited to:
- The *BSB* may insist that the designated Supervisor undertake refresher training within a specified timeframe
 - The *BSB* may request that policies are updated to reflect the Authorisation Framework and reviewed by the Authorisation Team within a specified timeframe
- 6.4 Any *AETO* granted authorisation will be subject to routine monitoring and supervision in line with the [Supervision Strategy](#).

7. Review of decision

- 7.1 It is open to *AETOs* to have a decision reviewed where they disagree with the *BSB*'s decision.

rQ38 of the *BSB Handbook* states:

Where provision is made under this Section for a review of a decision by the BSB, this review may be delegated to an [Independent Decision-Making Panel](#), where specified by the BSB.

- 7.2 An *AETO* wishing to apply to have a *BSB* decision reviewed must do so in writing, within four weeks of the date of the original decision using the prescribed [application form](#). Reviews will be considered by an Independent Decision-Making Panel (*IDP*). The panel relating to Authorisations decisions meets every six weeks to consider such requests.
- 7.3 Original decisions will stand, pending the review by the *IDP*.

⁸ *BSB Handbook*, Part 4 Section B3 rQ32

8. Appeals

- 8.1 Should an AETO remain dissatisfied with the outcome of the IDP then they may submit an appeal to the High Court.

rQ39

Where under this Section provision is made for a review by the BSB of a decision, no appeal may be made to the High Court unless such a review has taken place.

rQ40

An individual who is adversely affected by a decision of the BSB under Section B.2 may appeal to the High Court against the decision.

Any questions relating to this policy should be directed to the [Authorisations Team](#)

Appendix 1

AETO Authorisation Process

