


May 2018



BAR  
STANDARDS  
BOARD

REGULATING BARRISTERS

## **Future Bar Training: BSB Policy Statement on pupillage and other forms of work-based learning, the authorisation framework, and the curriculum and assessment strategy**

### **Background**

1. In a Policy Statement on the Future of Bar Training (FBT), which we issued on 23 March 2017, the Bar Standards Board (BSB) explained that, as the regulator of the Bar in England and Wales, we are responsible for regulating the three components of Bar training:
  - we specify the academic qualifications required;
  - we set the terms of entry to, and the content of, the vocational training; and
  - we regulate the provision of the final stage, pupillage/work-based learning.
2. Our March 2017 Statement also made clear that over the last few years, the BSB has conducted extensive research and public consultation to examine the ways in which students currently train for the Bar and to consider what reforms to the system should be made, to ensure that it better meets the four key criteria of:
  - encouraging greater flexibility – so that the training system enables innovation in how education and training is delivered;
  - improving accessibility – so that the best candidates are able to train as barristers and that the Bar as a whole better reflects the communities it serves;
  - improving affordability – to bring down the cost of studying to students; and
  - maintaining high standards – to ensure that any new training pathway sustains current standards.

3. The Statement went on to set out the Board's decisions in relation to the academic and vocational components of training and explained that our next steps in this review would be:
  - a review of the requirements for Call to the Bar delivered by the Inns, and the evolving role of the Inns in the formal regulatory arrangements of the BSB;
  - improving our regulatory oversight of pupillage and other forms of work-based learning (practical learning under the supervision of trained and experienced supervisors) and taking steps to ensure the consistency of the outcomes at the end of this phase of training – to give the public confidence that, wherever and however a barrister has trained, the same minimum standard as set out in the Professional Statement has been achieved; and
  - providing more detail about the criteria in the Authorisation Framework that we will use to determine whether a proposal from a prospective training provider is fit for purpose and complies with the revised rules that will come into force at the conclusion of our FBT programme, and for authorising new training courses, which we would develop in collaboration with stakeholders.
4. On 3 October 2017, we issued a consultation document reviewing our regulatory arrangements in relation to the role of the Inns and pupillage and seeking comments on the form and content of our draft Authorisation Framework. That consultation received over 150 responses from a wide range of stakeholders.
5. We also undertook a more targeted consultation with experts, practitioners, and current and recent students on the curriculum and assessment strategy for Future Bar Training.
6. On 23 March 2018, the Board published a Policy Statement summarising its decisions following the consultation about the role of the Inns of Court in the future of Bar training. That Policy Statement is attached here as **Annex A**.
7. This is the final Policy Statement that we intend to issue as part of our Future Bar Training programme. It contains information about the Board's recent decisions in relation to:
  - Pupillage and other forms of work-based learning;
  - the Authorisation Framework; and
  - our revised Curriculum and Assessment Strategy that sets out what will be covered and how it is to be assessed during each component of education and training in the future.

## **Board decisions on pupillage and other forms of work-based learning**

8. During April and May, the Board met to discuss the high-level policy considerations relevant to future arrangements for the regulation of pupillage and other forms of work-based learning. The Board is very firmly of the view that practical learning under the supervision of trained and experienced supervisors is an essential element of the training which all prospective barristers must be required to undertake before being authorised to practise as barristers in their own right. For the vast majority this will continue to take the familiar form of pupillage but we expect that new forms of delivery will emerge over time.
9. Our recent consultation considered aspects of the regulation and structure of pupillage and other forms of work-based learning including:
  - the authorisation and reauthorisation of Authorised Education and Training Organisations (AETOs) – this new term includes organisations formerly known as Providers, Pupillage Training Organisations and Approved Training Organisations;
  - the duration of pupillage and other forms of work-based learning;
  - when the provisional practising certificate may be applied for;
  - the minimum pupillage funding award;
  - the number of pupils per pupil supervisor; and
  - pupil supervisor training.
10. We are very grateful to all those who responded to our consultation exercise. A range of views was expressed in answer to each of our questions and we have considered all those responses very carefully in reaching our conclusions. These policy decisions remain subject to the final approval of the rules that will now need to be agreed by the Board following further consultation. The rules will then require approval by the LSB but our conclusions in principle are as follows:
  - all organisations – including chambers, BSB entities and other existing Pupillage Training Organisations - will be surveyed to confirm whether they wish to offer / continue to provide pupillage or work-based learning. Those who do will be required to apply for a new authorisation under the new Authorisation Framework.
    - This will be a proportionate process undertaken with full support and guidance from the BSB. It will allow us to have sufficient information to ensure that pupillage or other forms of work-based learning offered to prospective barristers meet the requirements of flexibility, accessibility, affordability and high-standards.
    - Subsequent supervision of pupillage and work based learning provision will be risk-based and targeted only at where it is necessary to ensure standards are being met.

- All AETOs will then be risk-assessed and then supervised by the BSB in accordance with the four principles of the FBT programme: flexibility, accessibility, affordability and high-standards. This supervision will be targeted and proportionate to the risks identified.
- AETOs will have to notify the BSB of any material change in their pupillage or work-based learning arrangements.
- The BSB will extend the rule allowing revocation of authorisation to provide pupillage or work based learning at any time to include failure to comply with a reasonable request for information;
- the presumed duration of pupillage and other forms of work-based learning will be a minimum of 12 months and no more than 24 months (or proportionately longer if undertaken part time). Each AETO will determine the duration of the programme it offers. Where the proposed duration is longer than 12 months, the AETO will need to demonstrate when seeking authorisation why that is appropriate;
- as is the case now, the length of the non-practising period of pupillage or work-based learning will normally be six months for full time, 12-month pupillages, after which a provisional practising certificate (PPC) may be applied for. An AETO may exceptionally apply for a variation to this norm as part of the authorisation process;
- the minimum pupillage or work-based learning funding award will be set in line with the wages recommended by the Living Wage Foundation, and will increase annually in line with that figure. Currently, the minimum award, regardless of location, is £12,000. The change would mean – on 2018 figures<sup>1</sup> – a rise to £17,212.50 for pupillages or other forms of work-based learning in London, and £14,765.63 for those outside London. It will continue to be mandatory for AETOs to make monthly payments to pupils but flexibility may be introduced to permit other appropriate payment arrangements, such as upfront payments. In order to meet the minimum award requirements during the practising period, AETOs will continue to cover the difference between a pupil's earnings and the minimum award;
- the current rule granting automatic exemption from the pupillage funding rules for transferring lawyers will be removed, but AETOs may continue to apply for exemption in individual cases;
- the number of pupils allowed to be supervised per pupil supervisor at any one time will be as follows:

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<sup>1</sup> The calculation for 2018 is for illustrative purposes only. We are intending to introduce this in 2019 and this figure has not yet been set by the Living Wage Foundation.

- for the self-employed Bar, pupil supervisors will be limited to two pupils – no more than one non-practising pupil and no more than one practising pupil; and
- for the employed Bar, pupil supervisors will be allowed to supervise more than one pupil at a time, and it will be up to each AETO to propose the organisational structure of pupil supervision as part of its authorisation;

and

- in relation to pupil supervisor training:
  - the BSB will prescribe outcomes for pupil supervisor training;
  - as it is at the moment, supervisor training will be open to providers other than the Inns;
  - the BSB will seek assurance from AETOs that pupil supervisors have met the required training outcomes. This issue will be discussed further in the context of a memorandum of understanding between the BSB and the Inns, focussing especially on the potential quality assurance that the Inns may provide in relation to pupil supervisors; and
  - refresher training will be mandatory for all pupil supervisors, and will be required every five years, or after three years for someone who has not supervised any pupils in the intervening time.

### **Board decisions on the Authorisation Framework.**

10. The Authorisation Framework prescribes the requirements and standards for approved pathways that organisations will need to meet in order to provide education and training for the Bar in the future, that is, to become an AETO. These standards embody the four principles that are the foundation of training for the Bar: Flexibility; Accessibility; Affordability and High Standards.
11. The Authorisation Framework and its annexes are the tools that enable organisations seeking authorisation by the BSB to understand what their proposals need to address, and that enable us to assess those proposals and to determine whether they are fit for purpose.
12. An earlier draft of the Authorisation Framework was included in our October 2017 consultation and respondents were asked to comment on its content and its drafting. We are grateful to everyone who responded to this part of the consultation and the revised draft of the Framework that we are publishing today as **Annex B** to this Policy Statement reflects comments that we received during the consultation.
13. During its meeting in May 2018, the Board agreed that the Authorisation Framework will give effect to the Board's policy positions on FBT, and will

determine whether a proposal from a prospective AETO is fit for purpose. We will be drawing up documents to show how to apply for authorisation, the detailed criteria that will be used in our decisions and what evidence an applicant will need to supply in support of their application. We received many consultation responses that will assist us in ensuring that the guidance on how to become authorised is more easily understood: for those already providing education and training for the Bar, we will draw heavily on documentation they already have or produce for other purposes as well. We want the process to balance the thoroughness that protects prospective barristers with the least onerous regulatory touch we can adopt to maintain the high standards expected of organisations that provide training or pupillage.

### **Board decisions on the Curriculum and Assessment Strategy.**

14. As part of our FBT programme, we have undertaken a comprehensive review of what skills and knowledge are covered during each component of the education and training required to become a barrister, and how those are assessed. This review has led to the development of a new Curriculum and Assessment Strategy which we intend to publish in due course.
15. The Curriculum and Assessment Strategy is a component of the Authorisation Framework as a key aspect of the principle of sustaining high standards.
16. The remit for the curriculum and assessment review was to consider the whole of the Bar training “journey”, including both the academic/vocational components and the compulsory courses during pupillage or work-based learning. The aim of the review was to develop a Curriculum and Assessment Strategy which would ensure that on successful completion of any of the pathways permitted under the Authorisation Framework, prospective barristers would demonstrate the competences outlined in the Professional Statement and would be assessed in the most appropriate way at the most appropriate stage in their route to qualification.
17. At its meeting in May 2018, the Board agreed to adopt the new Strategy which includes changes to the following elements of training:
  - the curriculum for the vocational component of Bar training<sup>2</sup> and how it will be assessed;
  - how and when Professional Ethics will be assessed; and

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<sup>2</sup> The vocational component is currently fulfilled by completing a Bar Professional Training Course but could be fulfilled in other ways in future due to the Authorisation Framework permitting a limited number of different routes to qualification to be offered from September 2019

- the compulsory courses to be taken during pupillage or other forms of work-based learning.

18. Changes to be implemented within the new Strategy in relation to **vocational components** include:

- splitting the way that Civil Litigation is assessed into two papers – a closed book “Civil Litigation and Evidence” exam and an open book “Civil Dispute Resolution” exam. Both papers will be assessed centrally;
- increasing flexibility for AETOs by removing the current prescription for the vocational component to include Options. Although AETOs will still be able to offer Options if they wish, this change could increase affordability for students because it means AETOs will be able to offer shorter courses if they wish;
- including Legal Research within the existing Opinion Writing component of the curriculum - both aspects will be assessed via a “take-home assessment”, the details of which have yet to be finalised;
- continuing to require that Advocacy, Drafting and Conference Skills be assessed locally by AETOs, although the BSB will introduce new oversight arrangements and high-level parameters to improve consistency in the way in which these subjects are assessed;
- increasing the number of sittings each year for the centralised assessments from two to three, in April, August and December;
- changing the rules to permit an unlimited number of attempts at each assessment within a maximum period of five years (subject to an AETO’s own internal regulations permitting this);
- removing the current “Very Competent” and “Outstanding” grade boundaries from centralised assessments and thus focusing the outcome of a student’s performance on whether or not they have achieved the minimum threshold standard required. (This will not prevent an AETO from describing performance in the qualifications they award.)

and

- removing current prescriptions in the way in which AETOs deliver the vocational component in areas such as formative assessments, class sizes, staff to student ratios, session design and delivery.

In addition to the above changes, the Strategy confirms that Criminal Litigation will continue to be assessed centrally in the same way as it is assessed presently.

19. The new Strategy will see some significant changes in the way that **Professional Ethics** will be assessed, including:

- splitting the assessment of Professional Ethics between an assessment set by AETOs during the vocational component and a BSB centrally set and marked examination during pupillage or work-based learning;
- having the BSB set high-level outcomes for assessment of Professional Ethics during the vocational component but giving AETOs freedom to devise their own assessment including integrating it with other assessments, provided that it has its own discrete assessment element which is graded as either “competent” or “not competent”;
- changing the centralised assessment of Professional Ethics to be an open book exam, undertaken during pupillage, thus better reflecting the real-life environment in which ethics must be adhered to during practice;
- allowing only candidates who have been in pupillage or work-based learning for a minimum period to sit the assessment in Professional Ethics, to ensure they have the benefit of context from their experience; and
- allowing prospective candidates a minimum of two opportunities to sit the centralised Professional Ethics assessment. (We are currently actively investigating whether it will be possible to offer three opportunities to sit the assessment during a year).

Bar Transfer Test candidates will continue to be required to take the centralised assessment in Professional Ethics.

20. The new Strategy will also see the following changes made to **the courses that prospective barristers will need to undertake during pupillage or work-based learning**:

- removing the current requirement to complete courses in Forensic Accountancy and Practice Management (although the equality and diversity aspects of the current Practice Management course will be



covered as part of Professional Ethics during both the vocational and pupillage or work-based components);

- maintaining the current Advocacy course that must be taken during the non-practising period of pupillage or work-based learning but opening this up to providers other than the Inns to deliver if they want: and
- introducing a new compulsory course on Negotiation Skills during the non-practising period of pupillage or work-based learning.

21. The BSB expects that the earliest that the changes relating to centralised assessments could come into force will be September 2020, though some changes relating to other aspects of the Curriculum and Assessment Strategy could come in sooner than this. Further information about implementation dates will be provided for AETOs and students likely to be affected by the changes in plenty of time to allow them to prepare.

22. The final draft of the new Curriculum and Assessment Strategy will be published in due course. This will contain further detail on the BSB's decisions summarised above.

All of the rule changes required to implement our new Bar training strategy will go to the Legal Services Board (LSB) for approval in the autumn after a period of consultation in the summer. There will inevitably be a period of transition to the new rules and the details of this will be consulted on as well prior to our submission to the LSB.

If you have any questions about the contents of this Policy Statement please email us at [contactus@barstandardsboard.org.uk](mailto:contactus@barstandardsboard.org.uk)

## **Annex A:**

### **23 March 2018 BSB Policy Statement on the Regulation of the Role of the Inns of Court in Bar Training**

1. In our previous Policy Statement on the Future of Bar Training, which we issued on 23 March 2017, the Bar Standards Board (BSB) explained that, as the regulator of the Bar in England and Wales, we are responsible for regulating the three elements of Bar training:
  - we specify the academic qualifications required;
  - we set the terms of entry to, and the content of, the vocational training which follows; and
  - we regulate the provision of the final stage, pupillage (work-based learning).
  
2. Our Statement also made clear that over the last few years, the BSB has conducted extensive research and public consultation to examine the ways in which students currently train for the Bar and to consider what reforms to the system should be made, to ensure that it better meets the four key criteria of:
  - encouraging greater flexibility – so that the training system enables innovation in how education and training is delivered;
  - improving accessibility – so that the best candidates are able to train as barristers and that the Bar as a whole better reflects the communities it serves;
  - improving affordability – to bring down the cost of studying to students; and
  - maintaining high standards – to ensure that any new training pathway sustains current standards.
  
3. The Statement went on to set out the Board’s decisions in relation to the academic and vocational stages of training and explained that our next steps in this review would be:
  - a review of the requirements for Call to the Bar delivered by the Inns, and the evolving role of the Inns in the formal regulatory arrangements of the BSB;
  
  - improving our oversight of pupillage as a regulator and taking steps to ensure the consistency of the outcomes at the end of pupillage – to give the public confidence that, wherever and however a barrister has done this final stage of training, the same minimum standard as set out in the Professional Statement has been achieved; and
  
  - providing more detail about the criteria in our Authorisation Framework for authorising new training courses, which would be developed in collaboration with stakeholders.

4. On 3 October 2017, we therefore issued a consultation document reviewing our regulatory arrangements in relation to the role of the Inns and pupillage and seeking comments on the form and content of our draft Authorisation Framework. That consultation received over 150 responses from a wide range of stakeholders and over the next few months the Board will be deciding the future of our arrangements in each of these three areas.
5. On 22 March 2018, the Board met to consider the role of the Inns of Court in our regulatory arrangements. The Inns have had an essential role in the education and training of barristers for centuries and their important role in Calling individuals to the Bar is enshrined in the Legal Services Act 2007. In reviewing the BSB's role in the regulation of the education and training of barristers we therefore thought it essential that we should review the role of the Inns to ensure that any requirements which we place on students remain strictly necessary.
6. We are very grateful to all those who responded to our consultation exercise. A range of views was expressed in answer to each of our questions and we have considered all those responses very carefully in reaching our 3 conclusions. These policy decisions remain subject to the final approval of any resulting rules that will be agreed by the Board once it has considered all relevant policy questions (and these rules will then require subsequent approval by the LSB) but our conclusions in principle are as follows:
  - The BSB should continue to have a role in the oversight of students intending to become a barrister in England and Wales. In order to achieve proportionate regulatory oversight, there should be a continuing partnership with the Inns of Court but with strengthened quality assurance/compliance arrangements in place. This oversight role will continue through the specification by the BSB of pre-Call and preauthorisation requirements in the BSB Handbook.
  - The BSB should continue to require student membership of an Inn. This would normally be required prior to commencing the 'vocational' stage of training, although this may vary depending on the precise pathway being followed (the Authorisation Framework will require this to be clarified for each pathway prior to approval).
  - In principle, the BSB should continue to delegate matters of student conduct to the Inns (subject to reviewing roles and responsibilities and agreeing appropriate BSB oversight of the process).
  - The BSB should require Authorised Education and Training Organisations to check educational attainment in accordance with the student's approved pathway.

- The BSB should continue to require the Inns of Court to administer the “Fit and Proper Person” and other pre-Call checks, subject to agreeing further detail with the Inns.
- The BSB should require a ‘Standard’ Disclosure and Barring Service check at the point of Call to the Bar.
- The BSB should review the Call Declaration and associated guidance, especially with regard to what disclosures are necessary to avoid confusion and inconsistencies.
- The BSB should continue to require that, before they are called to the Bar and can begin pupillage, students must have completed a series of professional development activities provided by their Inn which are known as “Qualifying Sessions”. The content of these should be aligned not just to the Professional Statement but should focus on public interest matters such as the advocate’s role in upholding the rule of law and integrating trainees into to a “community of practice” through interactions with more experienced practitioners and the judiciary. We believe that the Inns are uniquely placed to provide this important function. The BSB should continue to specify a minimum number of such Sessions but the precise number is yet to be agreed. More of this activity should be available to prospective barristers outside London, through coherent collaboration between the Inns, circuits and regional training providers.

7. We will discuss these principles further with the Inns as we agree next steps. Once any remaining policy decisions have been taken, we will agree a Memorandum of Understanding with the Inns of Court to clarify roles and responsibilities. We will also seek to agree a comprehensive data sharing protocol to cover any transfer of information relating to students between the BSB and the Inns.

8. The Board will now seek to reach final conclusions on the regulation of pupillage and on the Authorisation Framework at its meetings in April and May respectively.

9. Once all the necessary policy decisions have been taken, any rule changes required to implement our new Bar training strategy will go to the Legal Services Board for approval in the autumn after a period of consultation in the summer.

# Bar Standards Board

## Authorisation Framework for the Approval of Education and Training Organisations

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## PREAMBLE

1. The Bar Standards Board (BSB), regulates barristers and specialised legal services businesses in England and Wales, in the public interest. Our responsibilities include setting the education and training requirements for becoming a barrister and setting continuing education and training requirements to ensure that barristers' skills are maintained throughout their career. Our work is governed by The Legal Services Act 2007 as well as a number of other statutes, notably the Equality Act 2010. Our approach to the regulation of education and training is informed by, but not governed by, the Higher Education and Research Act 2017.
2. This Authorisation Framework has been developed as part of a programme of regulatory change, Future Bar Training, focusing on education and training for the Bar. Future Bar Training enables us to fulfil our statutory objective of encouraging an independent, strong, diverse and effective legal profession so that there are barristers who can meet the needs of consumers in a fast-changing market for legal services. Future Bar Training is informed by the Legal Services Board's statutory guidance, *Guidance on regulatory arrangements for education and training* issued under s162 Legal Services Act 2007 (04 March 2014)<sup>1</sup>, and their standards for assessing regulatory performance, *Regulatory Performance Standards* (December 2017)<sup>2</sup>. Subject to approval by the LSB of our new arrangements for training for the Bar, the Authorisation Framework complies with the statutory obligations of the BSB. Our obligations will be to be compliant with the following outcomes:
  - Education and training requirements focus on what an individual must know, understand and be able to do at the point of authorisation;
  - Providers of education and training have the flexibility to determine how to deliver training, education and experience that meets the outcomes required;
  - Standards are set that find the right balance between what is required at the point of authorisation and what can be fulfilled through ongoing competency requirements;
  - Regulators successfully balance obligations for education and training between the individual and the entity both at the point of entry and on an ongoing basis;
  - Regulators place no inappropriate direct or indirect restrictions on the numbers entering the profession.

## ABOUT THE AUTHORISATION FRAMEWORK

3. This Authorisation Framework is aimed at any organisation that wishes to deliver training for the Bar of England and Wales. It may also be of interest to any consumer who wants to understand how we authorise the organisations that deliver Bar training.
4. The Authorisation Framework sets out expectations and requirements and does so in a way that clearly distinguishes between organisations that wish to offer an

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<sup>1</sup>[http://www.legalservicesboard.org.uk/what\\_we\\_do/regulation/pdf/20140304\\_LSB\\_Education\\_And\\_Training\\_Guidance.pdf](http://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/20140304_LSB_Education_And_Training_Guidance.pdf)

<sup>2</sup>[http://www.legalservicesboard.org.uk/news\\_publications/LSB\\_news/PDF/2017/Regulatory\\_Performance\\_Standards\\_December\\_2017\\_\(final\).pdf](http://www.legalservicesboard.org.uk/news_publications/LSB_news/PDF/2017/Regulatory_Performance_Standards_December_2017_(final).pdf)

academic/vocational component (likely to be universities or other providers of education), and those that wish to offer a pupillage/work-based component (likely to be chambers and organisations that employ barristers).

5. The Authorisation Framework and its annexes are the tools that enable organisations seeking authorisation by the BSB to understand what their proposals need to address, and that enable us to assess those proposals and to determine whether they are fit for purpose.

## INTRODUCTION

6. This Authorisation Framework prescribes the standards that organisations must meet in order to provide education and training for the Bar, that is, to become Authorised Education and Training Organisations (this term includes organisations formerly known as Providers, Pupillage Training Organisations and Approved Training Organisations). These standards embody the four principles that are the foundation of training for the Bar: Flexibility; Accessibility; Affordability and High Standards.<sup>3</sup> Compliance with the indicators set out under each of the four principles will demonstrate meeting the required standards. The Authorisation Framework will be applied proportionately taking a balanced and common-sense approach having regard to factors such as the size and nature of the prospective Authorised Education and Training Organisation, the number of prospective barristers trained, the economics and logistics of the training offered, and the market conditions.
7. Education and training for the Bar must prepare prospective barristers to satisfy the requirements of the Professional Statement for Barristers incorporating the Threshold Standard and Competences<sup>4</sup>, which prescribes the knowledge, skills and attributes that all barristers will have on “day one” of practice. The Authorisation Framework ensures that Authorised Education and Training Organisations enable prospective barristers to acquire the necessary knowledge, skills and attributes and demonstrate the Competences to at least the Threshold Standard.
8. The Authorisation Framework encourages prospective Authorised Education and Training Organisations to innovate and compete in developing and adapting their provision as new challenges and opportunities arise. The Authorisation Framework is outcomes-focused, evidence-based, transparent, risk-based and consumer-focused. We use a range of regulatory means to ensure compliance with the Framework and once authorised, the main focus is on proportionate, risk-based supervision. We expect all Authorised Education and Training Organisations to comply with all relevant legal obligations.

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<sup>3</sup> The four criteria set out in the BSB Policy Statement on Bar Training 23/03/17

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[https://www.barstandardsboard.org.uk/media/1787559/bsb\\_professional\\_statement\\_and\\_competences\\_2016.pdf](https://www.barstandardsboard.org.uk/media/1787559/bsb_professional_statement_and_competences_2016.pdf)



## COMPONENTS AND PATHWAYS

9. There were previously three distinct and sequential **stages** of education and training for the Bar:

- *Academic Stage* - satisfied by completion of a Qualifying Law Degree (QLD) or a non-law degree plus the Common Professional Examination (CPE) or Graduate Diploma in Law (GDL);

followed by

- *Vocational Stage* - satisfied by completion of the Bar Professional Training Course (BPTC) and the Inns pre-Call requirements as set out in the BSB Handbook Part 4;

followed by

- *Professional Stage* – satisfied by pupillage as set out in the BSB Handbook Part 4.

10. The advantages of the three stages of education and training have been retained in the Authorisation Framework through the continuing requirement to have them as **components** (rather than sequential stages) of more flexible pathways to qualification. The three components of education and training for the Bar are:

- Academic
- Vocational
- Pupillage or work-based

### 10.1 Academic component

Graduate education enabling prospective barristers to demonstrate (as a minimum) the Competences set out in the Professional Statement (September 2016), as specified in the Curriculum and Assessment Strategy laid down by the BSB. The academic component will be satisfied by a law degree or a non-law degree plus further graduate/postgraduate study that contains the seven “Foundations of Legal Knowledge” subjects<sup>5</sup> and covers the requirements set out in the Curriculum and Assessment Strategy.

We do not regulate the content of undergraduate degrees and we expect a Higher Education Institution (HEI) or body with degree awarding powers to do so independently of us within the framework of the relevant competent bodies for HEI quality assurance and regulation, in accordance with the Higher Education and Research Act 2017 (HERA 2017) and the regulatory framework of the Office for Students<sup>6</sup>. The Office for Students prescribes conditions of registration including

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<sup>5</sup> The seven foundations of legal knowledge are Criminal Law, Equity and Trusts, Law of the European Union<sup>5</sup>, Obligations 1 (Contract), Obligations 2 (Tort), Property/Land Law, Public Law (Constitutional Law, Administrative Law and Human Rights Law). Subject to the United Kingdom’s withdrawal from the European Union and/or any agreement made on European Law in future. European Law will continue as one of the foundation subjects for the foreseeable future.

<sup>6</sup> <https://www.officeforstudents.org.uk/advice-and-guidance/regulation/the-regulatory-framework-for-higher-education-in-england/>

clear threshold requirements for quality and standards (conditions B1-5). The Office for Students may also ask the Designated Quality Body (The Quality Assurance Agency) to assess quality and standards of registered providers, and to publish their findings. We believe that no additional regulation from us is necessary for the academic component.

## 10.2 Vocational component

Education and training preparing prospective barristers to work in the legal profession and demonstrate (as a minimum) the Competences set out in the Curriculum and Assessment Strategy. As part of the vocational component, students will be required to take a Bar Course Aptitude Test (BCAT) and to complete a specified programme of professional development activity at an Inn of Court (currently known as “Qualifying Sessions”).

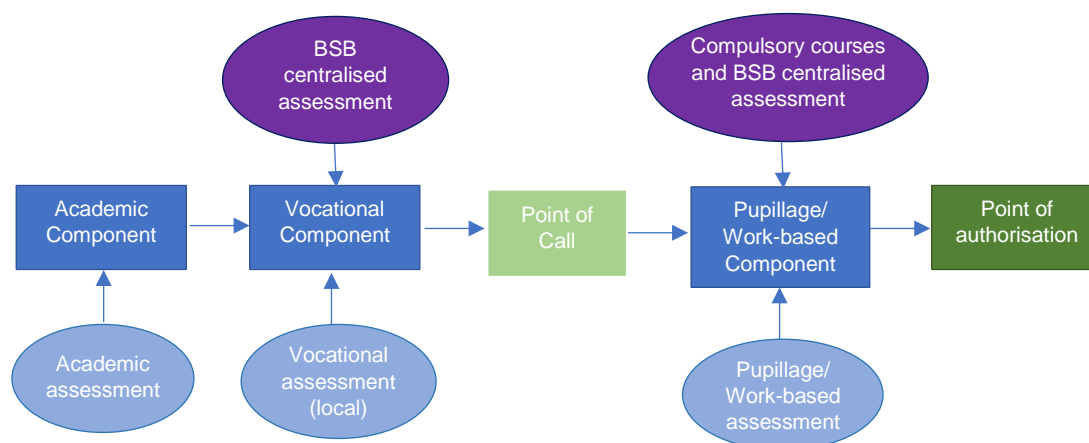
## 10.3 Pupillage or Work-based component

Pupillage<sup>7</sup> or other forms of training providing real life training in legal work under supervision, where prospective barristers can build on prior learning and experience in order to demonstrate the Competences set out in the Curriculum and Assessment Strategy.

10.4 Successful completion of the above components will enable a prospective barrister to acquire the knowledge, skills and attributes required by the Professional Statement (September 2016). Subject to satisfaction of some further BSB and Inns of Court pre-Call and pre-authorisation requirements as set out in the BSB Handbook, and relevant administrative processes, a barrister will then be authorised to practise.

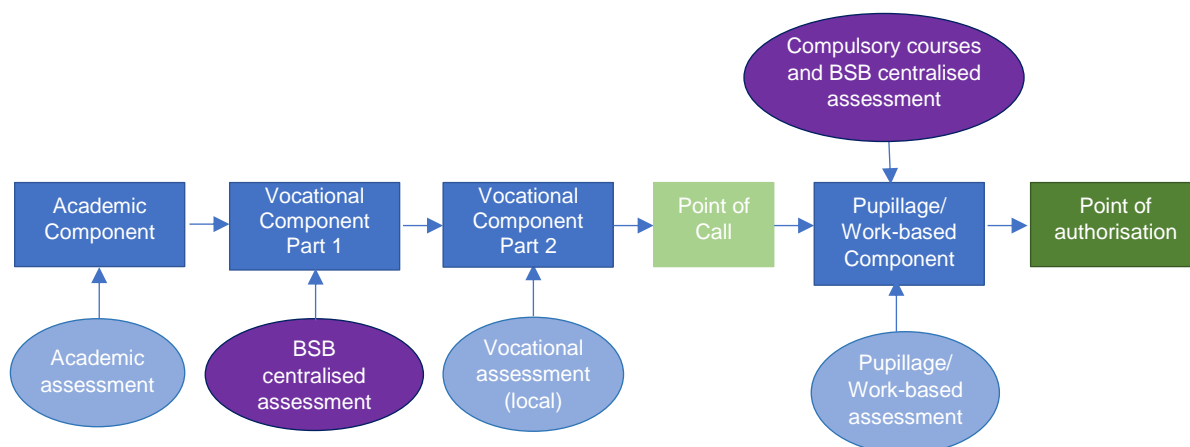
11. The three components may be attained by means of different **pathways**. There are four approved training pathways:

11.1. Three-step pathway: academic, followed by vocational, followed by pupillage/work-based components;

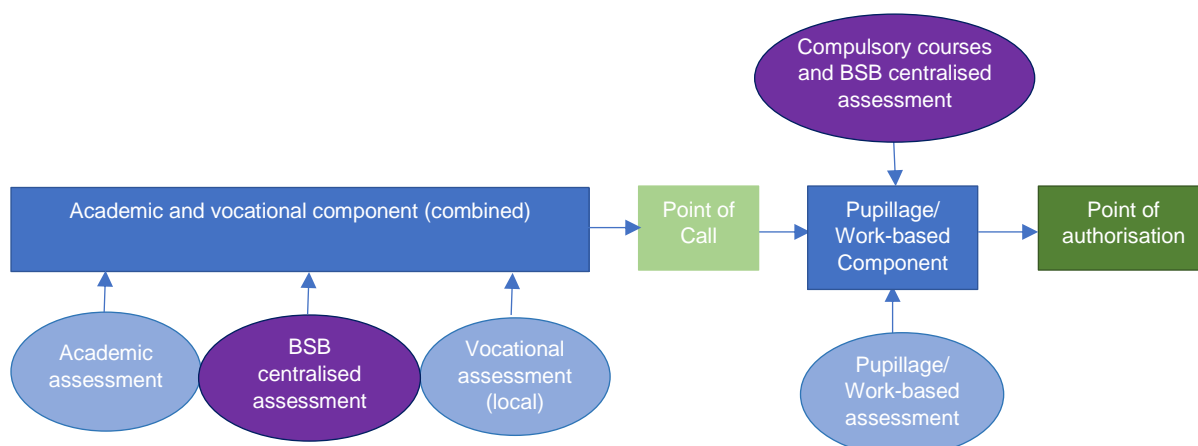


<sup>7</sup> BSB Policy Statement on Bar Training 23/03/17 paragraph 34 states that FBT “would not require substantive changes to the current arrangements for pupillage”. In May 2018 the BSB issued a policy statement relating to pupillage: (link when available)

11.2. Four-step pathway: academic component, followed by vocational component in two parts, followed by pupillage or work-based component;



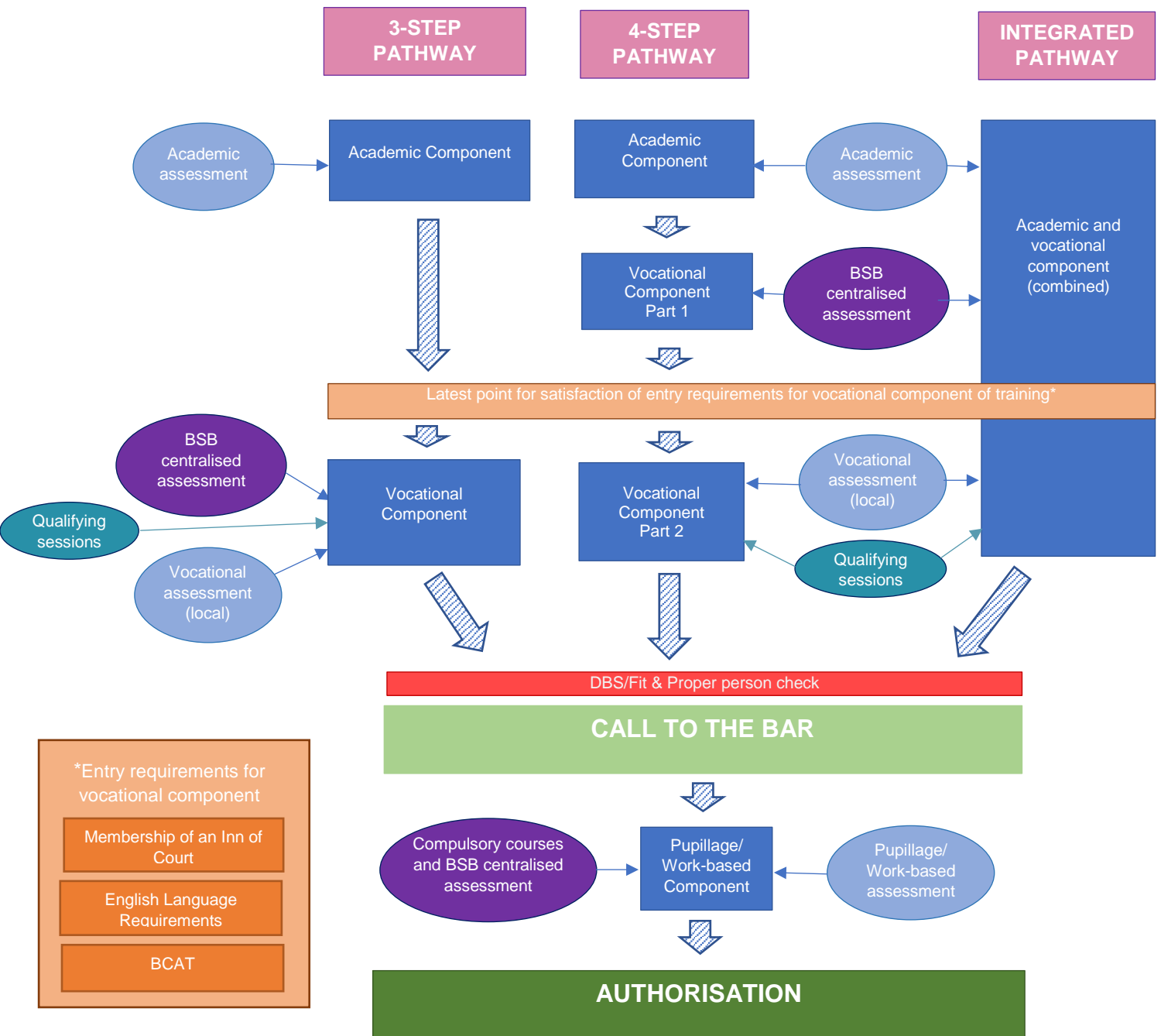
11.3. Integrated academic and vocational pathway - combined academic and vocational components followed by pupillage or work-based component;



11.4. Apprenticeship pathway: combined academic, vocational and pupillage or work-based components.<sup>8</sup> Authorised Education and Training Organisations are invited to propose their own structure for an apprenticeship pathway.

We may be prepared to approve further training pathways in the future.

<sup>8</sup> BSB Policy Statement on Bar Training 23/03/17, paragraph 31, Higher Apprenticeship Model



12. The three components of education and training for the Bar must satisfy four core principles:

- Flexibility
- Accessibility
- Affordability, and
- High Standards

13. In the section “The Four Principles – What they mean”, we provide a comprehensive explanation of each principle. The four principles have equal weight and are inter-related. Prospective Authorised Education and Training Organisations are expected to demonstrate that they have complied with the indicators listed under each of the four principles in developing education and training for the Bar. Where they identify a possible tension between the principles, prospective Authorised Education and Training Organisations will need to provide a rationale as to how they have achieved an acceptable balance between the principles.
14. In the section “The Four Principles – What the BSB wants to see – Indicators”, we set out what we require from prospective Authorised Education and Training Organisations to demonstrate that they satisfy the four principles and meet our standards for authorisation. Indicators of compliance are designated as either mandatory or recommended. In deciding what is mandatory and what is recommended we have taken into account our statutory objective of encouraging an independent, strong, diverse and effective legal profession so that there are barristers who can meet the needs of consumers in a fast-changing market for legal services, as well as other statutory requirements and agreed regulatory policy objectives.
15. Authorised Education and Training Organisations have responsibility for the components of the approved training pathways that they are authorised to provide. Where education and training is provided in collaboration or consortium with other organisations, we will require the Authorised Education and Training Organisations to have adequate governance arrangements in place to reflect that responsibility.

## AUTHORISATION, RE-AUTHORISATION AND MONITORING

16. Prospective Authorised Education and Training Organisations will be expected to submit a proposal setting out the components/approved training pathways they wish to provide. This proposal will include:
  - information about how the prospective Authorised Education and Training Organisation intends to address the Competences and the Curriculum and Assessment Strategy;
  - any relevant pre-Call and pre-authorisation requirements.
17. To show that they meet the standards in this Authorisation Framework, prospective Authorised Education and Training Organisations must provide:
  - clear evidence of how they meet the mandatory indicators
  - explanations about which of the recommended indicators they comply with and how, and rationale for choosing not to comply.
18. We will (in separate documents<sup>9</sup>) set out against the indicators examples of the matters that prospective Authorised Education and Training Organisations will need to explain and examples of the types of evidence that could be provided, or used by us, to assess whether the organisation is compliant. The Authorisation Framework will be applied proportionately.
19. Authorisation for organisations providing the vocational components (whether or not academic and work based components are to be integrated as well) will last for a defined period, after which re-authorisation will be required. This means that current HEI providers of the BPTC, as well as any new providers of Bar training, must seek a new authorisation under this Framework.
20. Once authorised, organisations providing the pupillage or work-based component will be subject to a programme of risk-based supervision. Existing Pupillage Training Organisations and Approved Training Organisations that train pupils will be required to apply for authorisation under this Authorisation Framework. Transitional arrangements will be in place.
21. We will set out separately -
  - the process for developing and making the authorisation submission (a template will be provided);
  - the process for re-authorisation;
  - what the authorisation/re-authorisation process consists of and how much it costs;
  - how the authorisation/re-authorisation decision is made and by whom and to what timescale;
  - what routes of appeal are available in the event of a refusal of authorisation/re-authorisation; and
  - the process for withdrawal of authorisation, including routes of appeal.

<sup>9</sup> Earlier drafts of these documents entitled Academic and Vocational Component Evidence and Pupillage/Work-based Component Evidence will be revised and made available later in 2018.

22. Authorised Education and Training Organisations will be monitored by us to ensure that they continue to satisfy the four principles and meet our standards and, where they do not, steps will be taken to remedy this. We will set out separately the monitoring process.
23. Organisations providing education and training for transferring lawyers (for example, qualified solicitors, qualified lawyers from other countries and legal academics) will have to meet the standards in this Authorisation Framework.
24. We will enable Authorised Education and Training Organisations, prospective barristers, practising barristers and consumers to benefit from the learning and good practice identified by the authorisation and monitoring process including by publication of relevant information.
25. We will comply with the “better regulation” five principles of good regulation (proportionality, accountability, consistency, transparency and targeting) when carrying out the authorisation and monitoring processes.<sup>10</sup>

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<sup>10</sup> The Better Regulation Taskforce, Principles of Good Regulation (2003) and LSA 2007 Part 2 section 3.3

## THE FOUR PRINCIPLES – WHAT THEY MEAN

26. The four principles are applicable at both sector and Authorised Education and Training Organisation level. By applying the principles to individual Authorised Education and Training Organisations we aim to ensure flexibility, affordability, accessibility and high standards in education and training for all prospective barristers.
27. We will take a common sense and proportionate approach to how the four principles are balanced in individual proposals within parameters that sustain the integrity of the principles. We believe that if we do this we will achieve our aims of advancing the four principles at sector level without placing a disproportionate burden on individual Authorised Education and Training Organisations. For example, under “Flexibility” not every organisation will be expected to offer the same wide range of choice in “pace, place and mode of delivery”, but we will expect organisations to have given consideration to the principle, and that across the entirety of the sector, a wide range of possibilities exist for prospective barristers.

### FLEXIBILITY

28. Our stated aim is “Encouraging greater flexibility - so that the training system enables innovation in how education and training is delivered”.<sup>11</sup> The barrister profession needs to reflect the society it serves. By regulating for different approaches to the provision of education and training and opening up new pathways to qualification, we will give prospective barristers choice, widen access and support our principles of Accessibility, Affordability and High Standards.
29. We will also comply with the LSB statutory guidance which states - “Providers of education and training have the flexibility to determine how to deliver training, education and experience which meets the outcomes required”.<sup>12</sup>
- 29.1. We see Flexibility as having two aspects:
- Flexibility for prospective barristers, and
  - Flexibility for Authorised Education and Training Organisations.
- 29.2. Flexibility for prospective barristers means flexible education and training. “Flexible learning is about offering students choice in how, what, when and where they learn; the pace, place and mode of delivery”.<sup>13</sup>
- 29.3. Flexibility for Authorised Education and Training Organisations takes into account that -
- we are a risk and evidence based regulator, and

<sup>11</sup> BSB Policy Statement on Bar Training 23/03/17

<sup>12</sup> Outcome 2 of the Legal Services Board: Guidance on regulatory arrangements for education and training (March 2014)

<sup>13</sup> Higher Education Academy <https://www.heacademy.ac.uk/individuals/student-success/toolkits/flexible-learning>, accessed 05/06/17. Note that the BSB lays down a curriculum and assessment strategy which must be complied with.



- we are taking a lighter touch role particularly in respect of the academic component and concentrating “...on matters more directly concerned with our standards for authorisation to practise”.<sup>14</sup>
- 29.4. Flexibility for Authorised Education and Training Organisations includes -
- The Authorisation Framework replacing prescriptive requirements at the vocational stage previously set out in the BPTC Handbook
  - an Authorisation Framework that enables innovation in education and training, for example the use of the latest technology-enhanced learning and e-learning and the incorporation of hands on legal experience, such as can be gained working in a supervised law clinic or advice centre (“clinical legal education”)
  - an Authorisation Framework that enables any training organisation, which is able to demonstrate compliance with the indicators listed under each of the four principles, to provide a training pathway or components of a pathway
  - reliance on established quality assurance and consumer protection organisations or mechanisms.<sup>15</sup>
  - recognition of the economics of providing education and training to relatively small annual numbers of prospective barristers (approximately 1,500 per year currently in the vocational component).

## ACCESSIBILITY

30. Our stated aim is “Improving accessibility – so that the best candidates are able to train as barristers and that the Bar as a whole better reflects the communities it serves”.<sup>16</sup> All of society relies on the justice system and the rule of law. Barristers play an important role in upholding both; some eventually become members of the judiciary. We are committed to increasing social mobility in the profession and to enhancing its diversity in relation to the protected characteristics enshrined in the Equality Act 2010.

30.1. To accomplish this, we comply with the LSB statutory guidance which states - “Regulators place no inappropriate direct or indirect restrictions on the numbers entering the profession”.<sup>17</sup>

This means that -

- we actively encourage wide and fair access to training pathways;
- we actively encourage giving prospective barristers choice in how they train;
- we do not place limits on the numbers undertaking Bar training, though we do require prospective Authorised Education and Training Organisations to assure us how they will offer a quality education and training experience and to publish data on the outcomes they achieve;
- we actively encourage training that enhances employability and transferability;

<sup>14</sup> FBT Consultation on the Future of Training for the Bar: Future Routes to Authorisation October 2016 paragraph 31

<sup>15</sup> FBT Consultation on the Future of Training for the Bar: Future Routes to Authorisation October 2016 paragraph 31. See for example Competition & Markets Authority (CMA) guidance to Higher Education providers

<sup>16</sup> BSB Policy Statement on Bar Training 23/03/17

<sup>17</sup> Outcome 5 of the Legal Services Board: Guidance on regulatory arrangements for education and training (March 2014)

- we expect Authorised Education and Training Organisations to adapt to the changing needs of the legal services market so that prospective barristers will be able to find appropriate work.
- 30.2. We encourage Authorised Education and Training Organisations to -
- remove barriers to entry for those who are currently under-represented within the Bar;
  - support prospective barristers to complete their education and training and to achieve the best outcome that they are capable of, with the objective of enabling them to demonstrate the Competences to at least the Threshold Standard;
  - support prospective barristers to progress into the profession, the workplace or further study;
  - be explicit about how the above responsibilities will be fulfilled in relation to both national and international prospective barristers.

## AFFORDABILITY

31. Our stated aim is “Improving upon affordability – to bring down the cost of studying to prospective barristers”.<sup>18</sup> English graduates have the highest student debts in the developed world.<sup>19</sup> The cost of Bar training is therefore a significant issue for prospective barristers, a potential disincentive for some and a potential barrier to poorer members of society. Reducing the cost of Bar training is a key factor in widening access to the Bar but is only one aspect of affordability. We are committed to a broader view of improving affordability which includes improving the prospective barrister’s prospects of success and providing transferable knowledge, skills and attributes for those who do not complete their Bar training or do not enter practice. Value for money can be about taking pro-active steps to help prospective barristers gain meaningful employment, even if it is not at the Bar of England and Wales.
- 31.1. Affordability is improved by re-balancing and improving the risk/benefit ratio for prospective barristers. Risks include financial cost, time, lost opportunity and an individual’s reputation in the event of not completing their education and training. Re-balancing can be achieved by -
- reducing the financial cost of Bar training;
  - providing best value for money, ie “the most advantageous combination of cost, quality and sustainability to meet customer requirements”;<sup>20</sup>
  - enhancing benefits, eg incorporating recognised academic awards such as master’s degrees and/or professional qualifications;
  - increasing transferability and/or recognition within and outside the legal profession (nationally and internationally);

<sup>18</sup> BSB Policy Statement on Bar Training 23/03/17

<sup>19</sup> Research undertaken on behalf of the Institute of Fiscal Studies. The average student debt on graduation is £50,000 and up to £57,000 for poorer students. Higher Education funding in England: past, present and options for the future 05 July 2017, <https://www.ifs.org.uk/people/profile/668>

<sup>20</sup> [finance-ni.gov.uk/articles/definition-best-value-money](https://finance-ni.gov.uk/articles/definition-best-value-money), accessed 05/06/17

- increasing the prospect of success for those who embark on Bar training;
  - providing clear and accessible information so that prospective barristers understand the risks and benefits of Bar training as they apply to their own personal circumstances.
- 31.2. Affordability may be enhanced by providing financial support to those who need/deserve it. In addition to loans there are other types of financial support:<sup>21</sup>
- scholarships and bursaries – financial awards paid by HEIs, charities, Inns of Court, professional bodies and others to prospective barristers who meet certain criteria;
  - fee waivers – a reduction in fees, subscriptions and other charges;
  - “in-kind support” – eg credit that prospective barristers can spend on in-campus facilities, provision of court dress and/or accommodation.

## HIGH STANDARDS

32. Our stated aim is “Sustaining high standards – to ensure that any new training pathway sustains current standards”.<sup>22</sup> The standards expected of the profession depend upon a high level of intellectual ability, a firm foundation of knowledge, skills and attributes and the confidence to use them in challenging circumstances. We are committed to ensuring that every barrister meets the standard required.
- 32.1. To accomplish this, we comply with the LSB statutory guidance which states -
- “Education and training requirements focus on what an individual must know, understand and be able to do at the point of authorisation”;
  - “Standards are set that find the right balance between what is required at the point of authorisation and what can be fulfilled through ongoing competency requirements”.<sup>23</sup>
- 32.2. The Authorisation Framework ensures that Authorised Education and Training Organisations enable prospective barristers to fulfil their potential and develop and demonstrate the Competences to at least the Threshold Standard<sup>24</sup> through a combination of strategic commitment, high quality education and training, and assessment and appraisal opportunities, and appropriate resources, policies and procedures. Newly authorised barristers must achieve the Threshold Standard (the minimum standard) but will aspire to higher standards and this should be encouraged and supported by Authorised Education and Training Organisations.
- 32.3. We will assure the maintenance of high standards by continuing to require training pathways to include BSB-controlled curriculum, tests, assessments and quality assurance processes, which we will prescribe from time to time.

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<sup>21</sup> <https://www.officeforstudents.org.uk/for-students/student-funding-finance-and-value-for-money/>

<sup>22</sup> BSB Policy Statement on Bar Training 23/03/17

<sup>23</sup> Outcomes 1 and 3 of the Legal Services Board: Guidance on regulatory arrangements for education and training (March 2014)

<sup>24</sup> Professional Statement for Barristers (incorporating the Threshold Standard and Competences) September 2016

## THE FOUR PRINCIPLES – WHAT THE BSB WANTS TO SEE - INDICATORS

33. To demonstrate that they have satisfied the four principles and meet our standards, Authorised Education and Training Organisations will need to comply with all the mandatory indicators set out below and show that they have considered and responded to the recommended indicators.
34. All indicators apply to all Authorised Education and Training Organisations, including those responsible for the pupillage or work-based component, unless otherwise stated.
35. How the indicators apply will depend on the type of Authorised Education and Training Organisation and which component(s) and/or pathway they provide.
36. The Authorisation Framework will be applied proportionately taking a balanced and common-sense approach having regard to factors such as the size and nature of the Authorised Education and Training Organisation, the number of prospective barristers trained, the economics and logistics of the training offered and the market conditions.
37. We have (in separate documents<sup>25</sup>) set out against the indicators examples of the matters that prospective Authorised Education and Training Organisations will need to explain and examples of the types of evidence that could be provided, or used by us, to assess whether the organisation is compliant.
38. The term “prospective barrister” includes any person who intends to qualify as a barrister.
39. For each principle, indicators are grouped under the headings - Strategic Goals and Oversight; Education and Training; Assessment and Appraisal.

## FLEXIBILITY

### Strategic Goals and Oversight

40. MANDATORY
- 40.1. A strategic approach to the planning and delivery of the component(s) and/or the training pathways provided that will enhance flexibility for prospective barristers. We understand that individual Authorised Education and Training Organisations may not be able to provide all-round flexibility for prospective barristers. However, we expect each Authorised Education and Training Organisation to provide a degree of flexibility in proportion to the scale and nature of its activities in order to contribute to this principle.

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<sup>25</sup> Earlier drafts of these documents entitled Vocational Component Evidence and Pupillage/Work-based Component Evidence will be revised and made available later in 2018

40.2. Systems and structures supporting flexibility as appropriate to the component(s) and/or pathway provided. This may include - administrative, financial and other support systems; policies, regulations and procedures; technology-enhanced learning and e-learning infrastructures.

41. RECOMMENDED

41.1. Collaboration with other organisations to facilitate relevant work experience whilst studying, and pupillage or other work-based learning.

### Education and Training

42. MANDATORY

42.1. An education and training programme that is appropriate for the component (academic, vocational or pupillage/work-based) and enables prospective barristers to develop and demonstrate the Competences.

42.2. For Authorised Education and Training Organisations that provide academic and/or vocational components, education and training modes (for example full-time or part-time) and pace of delivery that are suitable to the needs of prospective barristers and matched to the education and training programme. Learning, teaching and training methods, practices and approaches that are appropriate for the mode and pace of delivery, support the prospective barrister to develop and demonstrate the Competences and allow for varied learning styles, and that support equality and diversity.

42.3. Flexibility within the pupillage or work-based component that supports equality and diversity and takes into account prospective barristers' personal circumstances, for example by the provision of part-time pupillage or work-based learning. Appropriate training methods, practices and approaches that support the prospective barrister to develop and demonstrate the Competences.

42.4. Clear, accessible information about the component(s) being provided and its place within the training pathway that enables prospective barristers easily to navigate their own route to qualification.

42.5. Timely provision of clear, accessible information for prospective barristers as to how, what, when and where they may learn and/or train.

43. RECOMMENDED

43.1. Technology-enhanced learning or e-learning to support education and training whether learning takes place on campus, at home, in the work-place or elsewhere.

43.2. Flexibility within the academic and/or vocational components that delivers practice and employment opportunities for prospective barristers including legal work experience and flexible working, whether nationally or internationally.

43.3. Innovation in Bar training that better meets the needs of prospective barristers. This may include structural innovation permitted in the BSB policy statement on Bar Training 22/03/17 and set out in paragraphs 8.1 to 8.4, such as:

- combining the academic and vocational components,
- splitting the vocational component into two parts, or
- offering a modular or apprenticeship model.

Only those offering all parts of a component will be considered for authorisation as Authorised Education and Training Organisations. For example, where the vocational component is split into two parts, we will not consider proposals from any organisation offering solely the preparation for the first part of a two-part vocational component. Authorised Education and Training Organisations may, however, enter into an agreement with an unauthorised (by the BSB) provider who wishes to offer preparation for part 1, and whose students are then assessed for part 1 and follow part 2 at the BSB - Authorised Education and Training Organisation. We would consider that arrangement as part of the prospective Authorised Education and Training Organisation's overall proposal. It therefore follows that students must be registered at a BSB- Authorised Education and Training Organisation in order to be able to be assessed.

43.4. For Authorised Education and Training Organisations that provide academic and/or vocational components, the provision of joint education and training, for example -

- that also meets the requirements of solicitors and legal executives and other legal and non-legal professions;<sup>26</sup>
- that enables prospective barristers to learn with others (see also Affordability).

43.5. Flexibility within the pupillage or work-based component, for example continuing to allow prospective barristers to train with different supervisors within a given period enabling the prospective barrister to demonstrate Competences that might otherwise not be acquired

## Assessment and Appraisal

44. MANDATORY

44.1. A variety of assessment and appraisal methods that support the development and demonstration of the Competences and are appropriately timed.

44.2. An assessment and appraisal strategy that incorporates the BSB-controlled curriculum, tests, assessments and quality assurance processes, which we will prescribe from time to time.

44.3. A schedule of assessment and appraisal points in a calendar or academic year that enables prospective barristers to benefit from timely results and feedback on progress. Timely communication of schedules to enable prospective barristers to plan.

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<sup>26</sup> Joint education and training is likely to reduce cost, increase transferability of the qualification and encourage new organisations to apply to become Authorised Education and Training Organisations.

45. RECOMMENDED

- 44.1. Elements of self-reflection that foster the profession's approach to Continuing Professional Development from an early stage.<sup>27</sup>

The BSB will also contribute to Flexibility by means of:

Considering proposals for innovative approaches to education and training, and assessment and appraisal, provided that they enable prospective barristers to develop and demonstrate the Competences. We will not expect Authorised Education and Training Organisations to offer all pathways to qualification, and we will not expect flexibility where the realities of the workplace in pupillage and other forms of work-based learning do not allow for flexibility (eg in times of attendance at court). However, our approach to encouraging innovation aims to foster a greater incidence of flexibility across the sector overall.

Publication of clear and accessible information relating to the approved training pathways to qualification.

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<sup>27</sup> <https://www.barstandardsboard.org.uk/regulatory-requirements/for-barristers/continuing-professional-development-from-1-january-2017/>

## ACCESSIBILITY

### Strategic Goals and Oversight

#### 46. MANDATORY

- 46.1. Commitment to Equality and Diversity<sup>28</sup> at organisational level, including a specific strategic commitment to –
- increasing diversity at the Bar;
  - taking active steps to change the public perception of the Bar as an elitist profession, for example through public outreach events.
- 46.2. A clear strategy as to how the components(s) and/or pathway provided will be made accessible and how prospective barristers will be able to complete their education and training and achieve the best outcome that they are capable of, enabling them to demonstrate the Competences to at least the Threshold Standard.
- 46.3. A set of targeted policies and procedures flowing from that strategy relating to access, retention, attainment and progression<sup>29</sup>, including -
- to encourage those who are currently under-represented at the Bar to consider it as a career for example by the provision of information, guidance and advice, outreach activities in schools and the wider community;
  - policies promoting open and fair recruitment; aiming to address traditional biases including through flexible approaches to considering prior learning and experience; selection processes that seek to eliminate bias around aspects such as socio-economic background; taking into account external constraints on international applicants such as visas and immigration;
  - how prospective barristers will be supported to enable them to engage with, reflect on and complete their Bar training (for example feedback mechanisms, support and mentoring);
  - how the education and training enables prospective barristers to progress to and from pupillage or other forms of work-based learning and to the legal profession, the workplace or further study (for example a clear indication of what Competences they will have achieved during and on completion of each component, and what routes are then available to them).
- 46.4. Periodic evaluation of this strategic approach and the effectiveness of the policies and procedures using quantifiable measures and data analysis.

#### 47. RECOMMENDED

None currently proposed.

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<sup>28</sup> Equality Act 2010

<sup>29</sup> Access – how you make all aspects of the training accessible throughout the training period; Retention – how you support the prospective barrister to complete their training; Attainment – how you support the prospective barrister to achieve the best outcome they are capable of; Progression – how you support the prospective barrister to progress throughout their training and into the workplace.



## Education and Training

### 48. MANDATORY

- 48.1. Compliance with all relevant legal obligations, for example reasonable adjustments to enable full participation in all aspects of education and training and assessment and appraisal.
- 48.2. Sufficient and appropriate human, physical and technological resources to provide every prospective barrister with an equal and effective opportunity to develop and demonstrate the Competences.
- 48.3. Provision and maintenance of learning environments (whether physical, virtual or social) that are supportive, safe, accessible and reliable for every prospective barrister promoting dignity, courtesy and respect in their use.
- 48.4. Prospective barristers provided with opportunities to give feedback to the Authorised Education and Training Organisation in order to shape their and others' learning experience.
- 48.5. Prospective barristers enabled to monitor their own progress and further the development of their learning through regular opportunities for feedback and communication; systems in place to flag at an early stage when a prospective barrister is at risk of failing to meet requirements.

### 49. RECOMMENDED

None currently proposed.

## Assessment and Appraisal

### 50. MANDATORY

- 50.1. Communication and consistent application of assessment and appraisal policies, regulations and procedures, including clear and accessible information relating to how the Competences will be assessed or appraised.
- 50.2. Relevant and targeted policies and procedures around access, retention, support, attainment and progression, to include progression to and from pupillage and other forms of work-based learning and into the legal profession and recognition of prior learning and experience in line with our principles of Accessibility and Affordability. Clear and accessible information for prospective barristers to enable them to understand the application of any policies and procedures that relate to them. Support for applicants throughout the process of obtaining such recognition.
- 50.3. The form of assessment and appraisal must be accessible to all, through design or reasonable adjustment.

51. RECOMMENDED

None currently proposed.

The BSB will also contribute to Accessibility by means of:

Demonstrating its own commitment to changing the perception of the Bar.

Benchmarking its accessibility policies and procedures against those of other professions.

## AFFORDABILITY

### Strategic Goals and Oversight

52. MANDATORY

52.1. Education and training that enhances employability and transferability to and from other legal professions and other professions.

52.2. Offering best value for money (where fees are paid) and high quality learning, education and training and assessment and appraisal opportunities to prospective barristers in line with our principle of High Standards.

52.3. Relevant and targeted policies and procedures relating to financial support and/or remuneration that take into account our Accessibility principle.

52.4. Where possible, the use of quantifiable measures to evaluate the success of these policies and procedures.

52.5. For Authorised Education and Training Organisations that provide academic and/or vocational components, communication of clear, accessible and meaningful information and data that enables prospective barristers (whether national or international) to make informed decisions as to their personal risk/benefit ratio. Data to be communicated includes but is not limited to -

- the correlation between degree classifications and levels of success;
- the correlation between the Bar Course Aptitude Test (BCAT) scores and levels of success;
- first attempt pass rates and success in obtaining pupillage or work-based training
- fees.

The BSB will adopt a data strategy that is consistent with the approach to be taken by the Office for Students, to enable students to access reliable information to inform their decisions.<sup>30</sup>

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<sup>30</sup> See Office for Students Regulatory Framework paragraphs 28-32.

- 52.6. For those who provide pupillage or work-based training -
- communication of clear, accessible and meaningful information and data as to the direct and indirect costs of pupillage or work-based training and the likelihood of being retained post qualification;
  - meeting BSB minimum funding requirements (self-employed) or London or National Living Wage levels (employed).

53. RECOMMENDED

None currently proposed.

### Education and Training

54. MANDATORY

None currently proposed

55. RECOMMENDED

- 55.1. Education and training that allows prospective barristers to spread the cost of their Bar training and/or earn while they learn, or limit the cost in the event that they do not complete their Bar training.
- 55.2. For Authorised Education and Training Organisations that provide academic and/or vocational components, provision of education and training leading to academic awards (including early exit awards) at postgraduate level that are recognised outside the legal profession both nationally and internationally. Recognised awards will be beneficial for those who decide not to complete their Bar training or to practise as a barrister.<sup>31</sup>
- 55.3. Innovation in Bar training that better meets the needs of prospective barristers. This may include structural innovation permitted in the BSB policy statement on Bar Training 22/03/17 and set out in paragraphs 8.1 to 8.4, such as:
- combining the academic and vocational components,
  - splitting the vocational component into two parts, or
  - offering a modular or apprenticeship model.

Only those offering all parts of a component will be considered for authorisation as Authorised Education and Training Organisations. For example, where the vocational component is split into two parts, we will not consider proposals from any organisation offering solely the preparation for the first part of a two-part vocational component. Authorised Education and Training Organisations may, however, enter into an agreement with an unauthorised (by the BSB) provider who wishes to offer preparation for part 1, and whose students are then assessed for part 1 and follow part 2 at the Authorised Education and Training Organisation. We would consider that arrangement as part of the prospective Authorised Education and Training

<sup>31</sup> The Law Degree is widely recognised but the BPTC is not. A vocational component at Masters level may increase financial cost but provide enhanced benefit. Evidence of enhanced benefit would be required.

Organisation's overall proposal. It therefore follows that students must be registered at a recognised Authorised Education and Training Organisation in order to be able to be assessed.<sup>32</sup>

- 55.4. For Authorised Education and Training Organisations that provide academic and/or vocational components the provision of joint education and training, for example -
- that also meets the education and training requirements of solicitors and legal executives and other legal and non-legal professions;
  - that enables prospective barristers to learn with others (see also Flexibility).<sup>33</sup>
- 55.5. For Authorised Education and Training Organisations that provide academic and/or vocational components, mapping of the Competences covered in component(s) and/or pathway to the Solicitors Regulation Authority's Statement of solicitor competence in order to facilitate the provision of joint education and training and assist those applying for recognition of prior learning and experience in order to qualify as a solicitor.<sup>34</sup>

### Assessment and Appraisal

56. MANDATORY

- 56.1. For Authorised Education and Training Organisations that provide academic and/or vocational components, flexible and low-cost assessment opportunities (both initial assessment and resits).

57. RECOMMENDED

None currently proposed.

The BSB will also contribute to accessibility of information by means of:

Publishing comparative data acquired to enable prospective barristers to make meaningful comparisons and determine their personal cost/benefit ratio.

<sup>32</sup> BSB Policy Statement on Bar Training 23/03/17 paragraph 23-25.

<sup>33</sup> Joint education and training is likely to reduce cost, increase transferability of the qualification and encourage new organisations to apply to become Authorised Education and Training Organisations.

<sup>34</sup> <http://www.sra.org.uk/solicitors/competence-statement.page>

## HIGH STANDARDS

### Strategic Goals and Oversight

#### 58. MANDATORY

##### 58.1. Authorised Education and Training Organisations will –

EITHER (academic and vocational Authorised Education and Training Organisations)

Be registered with the Office for Students<sup>35</sup> and have Degree Awarding Powers (DAP)<sup>36</sup> or be validated by a body with DAP and subscribe to Office of the Independent Adjudicator (OIA),<sup>37</sup>

OR

Demonstrate how they comply with appropriate standards, requirements and quality assurance processes as relevant and proportionate to the nature of the organisation and prescribed by us (for example, the Pupillage or Work-based Component Handbook).<sup>38</sup>

##### 58.2. Authorised Education and Training Organisations must adhere to the Curriculum and Assessment Strategy for Bar Training.

##### 58.3. Admission/recruitment and selection policies and procedures consistent with the Competences to be developed and demonstrated. There should be an appropriate balance between any requirements imposed, the likelihood of success for the prospective barrister and our principle of Accessibility.

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<sup>35</sup> The Office for Students prescribes conditions of registration including clear threshold requirements for quality and standards (conditions B1-5). The Office for Students may also ask the Designated Quality Body (The Quality Assurance Agency) to assess quality and standards of registered providers, and to publish their findings. It requires the QAA to assure institutions on a random sampling basis and also on a risk-basis following trigger events or on receipt of information about one or more lead indicators.

<sup>36</sup> Degree Awarding Powers: All valid UK degrees are awarded by a university or other legally approved degree-awarding body that has overall responsibility for the academic standards and quality of the qualification. Decisions to grant degree awarding powers in the UK are made by the Privy Council based on advice from the QAA but this process is now in transition to a new one following HERA 2017. Authorised Education and Training Organisations will have the type(s) of degree awarding powers (Foundation degree awarding powers (FDAP), Taught degree awarding powers (TDAP) and Research degree awarding powers (RDAP)) appropriate to the education and training provided. Any prospective AETO seeking to provide academic and/or vocational components which does not currently have DAPs or is not validated by a body with DAPS must seek BSB advice before applying for authorisation.

<sup>37</sup> Office of the Independent Adjudicator is an independent body that runs a student complaints scheme in England and Wales. OIA membership includes FE colleges providing higher education, alternative providers and providers of School-Centred Initial Teacher Training, as well as universities.

<sup>38</sup> The BSB will monitor the approach taken to regulatory requirements for new higher education providers by the Office for Students and adopt strategies and approaches which are aligned to their regulatory principles, adapting them in a proportionate manner to the relevant context

- 58.4. Authorised Education and Training Organisations will adopt the following admission criteria to the vocational component in the three-step and four-step pathways -
- An undergraduate degree classified as not less than a lower second class honours (2:2) or equivalent, which can be either a law degree, or a non-law degree plus further graduate/post-graduate study and in both cases must cover the seven foundations of legal knowledge<sup>39</sup> and satisfy the Professional Statement (September 2016) Competence 1.2
  - successful completion of the Bar Course Aptitude Test (BCAT);
  - verification that the prospective barrister's English language ability is a minimum of IELTS 7.5 in each section of the test, or equivalent.
- 58.5. Authorised Education and Training Organisations will ensure that the following additional admissions criteria are satisfied at an agreed point in the integrated academic and vocational pathway and the apprenticeship pathway -
- successful completion of the Bar Course Aptitude Test (BCAT);
  - verification that the prospective barrister's English language ability is a minimum of IELTS 7.5 in each section of the test or equivalent.
- 58.6. Authorised Education and Training Organisations must take responsibility for qualifications, identity and any other required credentials checks (e.g. immigration status) and report to the BSB any fraudulent or dishonest activity related to entry qualifications. The Inns of Court will administer fit and proper person and other pre-Call checks in accordance with the Memorandum of Understanding (MOU) between the BSB and the Council of the Inns of Court (COIC) and the Inns.<sup>40</sup>
- 58.7. Effective quality assurance policies and procedures (covering where appropriate design, development, approval, monitoring, review and improvement, closure of components and/or education and training programmes) to ensure that prospective barristers can develop and demonstrate the Competences to the Threshold Standard.
- 58.8. Mapping of the Competences covered in component(s) and/or pathway to the Professional Statement (September 2016), i.e. identifying where each individual competence is covered in the education and training provided.
- 58.9. Provision to prospective barristers and other stakeholders of clear, accessible, valid and reliable information about the education and training offered.
59. RECOMMENDED
- None currently proposed.

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<sup>39</sup> The seven foundations of legal knowledge are Criminal Law, Equity and Trusts, Law of the European Union<sup>39</sup>, Obligations 1 (Contract), Obligations 2 (Tort), Property/Land Law, Public Law (Constitutional Law, Administrative Law and Human Rights Law). Subject to the United Kingdom's withdrawal from the European Union and/or any agreement made on European Law in future. European Law will continue as one of the foundation subjects for the foreseeable future.

<sup>40</sup> Subject to agreeing further details with the Inns of Court

Education and Training and Assessment and Appraisal

60. MANDATORY

- 60.1. Education and training programmes, assessment and appraisal opportunities, resources (human, physical, technological, financial and intellectual), policies and procedures that underpin and reflect the Professional Statement (September 2016) and incorporate the BSB-controlled curriculum, tests, assessments and quality assurance processes which we will prescribe from time to time.
- 60.2. Providing education and training and assessment and appraisal at the appropriate graduate/postgraduate/professional level.
- 60.3. An organisational culture that promotes high quality education and training and high standards of performance and professionalism on the part of prospective barristers. Academic misconduct by a prospective barrister must be reported to the BSB who may refer it to the Inns Conduct Committee.
- 60.4. Consistently applying appropriate internal and external quality assurance (e.g. pupillage committee; external examiners).
- 60.5. Clear and accessible information provided to prospective barristers as to where each individual Competence is taught and assessed in the education and training provided.
- 60.6. Support to enable prospective barristers to fulfil their potential in developing and demonstrating the Competences to the Threshold Standard.
- 60.7. Fair, timely and objective assessment and appraisal methods and opportunities.
- 60.8. Providing opportunities for prospective barristers to engage with their education and training and assessment and appraisal through feedback (formal and informal), including appeals, complaints, grievance policies and procedures.

61. RECOMMENDED

None currently proposed.

BSB will also regulate for High Standards by means of:

BSB-controlled curriculum, tests and assessments of Competences in high risk areas for the profession and to the public.

Consistently applied external quality assurance processes (eg BSB external examiners, monitoring of Authorised Education and Training Organisations).

Oversight and audit of the programme of Qualifying Sessions offered by each of the four Inns of Court.

Oversight of Authorised Education and Training Organisations' assessments and appraisals in order to deliver consistency.

BSB

May 2018