

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

Regulatory Operations Department	
Variation, Amendment, Suspension and Withdrawal of authorisation as an AETO 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. These rules are set out at Part 4 B3 (rQ29-rQ34).

1.2 This policy relates to decisions taken under rQ33 of the BSB Handbook to vary, amend, suspend or withdraw authorisation of an Authorised Education and Training Organisation (AETO) offering pupillage / work-based learning. This includes organisations previously referred to as Approved Pupillage Training Organisations (ATOs or PTOs).

1.3 In addition to any conditions imposed in line with this policy, AETOs may be subject to particular conditions specific to their authorisation (rQ32).¹

2. Scope

2.1 This document sets out the BSB's policy in relation to decisions by BSB staff to "Withdraw authorisation, refuse, modify or impose conditions on providers of the pupillage / work-based learning component (Part 4, B3)."² Under the [Scheme of Delegations](#), the following persons are authorised to take decisions under rQ33: the Director of Regulatory Operations, the Head of Authorisation and the Head of Supervision. Staff applying this policy should read it in conjunction with the internal operational guidance. A decision to suspend or withdraw authorisation will normally be made by the Director of Regulatory Operations.

2.2 The policy applies to decisions under rQ33 taken in relation to all organisations authorised³ 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 and will have regard to promoting the Regulatory Objectives listed at section 1 of the Legal Services Act 2007.

3.2 The Authorisation Framework prescribes the requirements 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 requirements embody the four key principles:

- Flexibility;
- Accessibility;
- Affordability; and
- High standards.

3.3 The current version of the BSB Handbook states:

rQ33 The BSB may vary, amend, suspend or withdraw authorisation of an AETO in the following circumstances:

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

² Delegation 36 of the BSB's Scheme of Delegations

³ For the avoidance of doubt, this policy, and the Handbook provisions, apply to those organisations who have not yet been authorised under the Authorisation Framework. This includes, for example, all previously authorised PTOs or ATOs.

- .1 the AETO has applied for such variation, amendment, suspension or withdrawal;*
- .2 the AETO ceases to exist, becomes insolvent, or merges;*
- .3 the AETO fails to comply with conditions imposed upon its authorisation;*
- .4 the BSB is of the view that the AETO has failed or will fail to fulfil the mandatory requirements set out in the Authorisation Framework;*
- .5 the BSB is of the view that the AETO is not providing the training for which it was authorised to an adequate standard or there has been a material change in the training provided; or*
- .6 the BSB is of the view that the continued authorisation of the AETO would inhibit the Regulatory Objectives.*

4 Action that is normally taken before a referral is made to those with delegated powers for a decision under rQ33

- 4.1 If a member of staff has concerns which could give rise to a need to vary, amend, suspend or withdraw authorisation, their team will usually discuss these concerns with the AETO directly before a decision is taken to refer the matter to those with delegated powers to make a decision under rQ33, in accordance with their usual processes.
- 4.2 As part of these discussions, the relevant team will normally set out a plan for improvement to provide the AETO with an opportunity to address relevant issues within a set timeframe.
- 4.3 Where a decision is taken to make a referral, the referring team will normally notify the AETO, referring to the possibility that a decision may be made under rQ33. This letter will typically inform the AETO of the reasons for the referral and any indicative timeframe for a decision.
- 4.4 Following the referring team's communication outlined in paragraph 4.3 above, an AETO remains authorised in line with their previous conditions of authorisation until any decision otherwise is taken under rQ33.
- 4.5 Where issues are sufficiently serious and/or urgent, or for other good reasons (for example where it could constitute a tipping off offence under the Money Laundering Regulations) it may not be appropriate to raise issues with an AETO, wait to agree an improvement plan and/or inform the AETO of the referral to those with delegated powers to consider making a decision under rQ33.

5 Taking a decision under rQ33

5.1 When deciding whether to vary, amend, suspend or withdraw authorisation, the BSB will have regard to the Regulatory Objectives, the key principles of Bar training and the need to act proportionately to any risk(s) identified. The decision-maker will record their reasons for any decision, including any decision not to vary, amend, suspend or withdraw authorisation as set out in rQ33. The AETO will be notified of the outcome.

5.2 The decision-maker reserves the right to collect additional information and/or to accept representations from the AETO at any point before making a decision. If the decision-maker does not take a decision under rQ33, they remain able to refer the matter(s) to another team within the BSB.

5.3 Specific guidance on when the BSB may vary, amend, suspend or withdraw authorisation is set out below.

6 Variation and Amendment

6.1 “Variation” refers to an addition or removal of a condition of authorisation. “Amendment” refers to adapting an existing condition of authorisation.

6.2 Any variation or amendment of conditions will be proportionate and targeted to address the concerns that the BSB has about the AETO’s authorisation. The circumstances in which a decision can be taken to vary or amend the conditions of an authorisation are set out in rQ33. Examples include, but are not limited to:

- Significant/substantial changes to the persons involved in delivering training eg the departure of the sole pupil supervisor from an AETO, or where that individual, or any other key individual has enforcement action or fitness to practise proceedings against them that may affect their ability to deliver training;
- Material changes to the structure of training provided, or to the nature of the AETO itself (eg a chambers that dissolves/merges with another set/expands by opening annexes in other parts of the country);
- The BSB receives information that the AETO is not meeting one or more of the mandatory requirements set out in the Authorisation Framework in some other way; and
- Implementation of new process(es) by the AETO.

7 Suspension

7.1 “Suspension” of authorisation is a time-limited period where an organisation is not able to operate as an AETO.

7.2 Circumstances in which a decision may be taken to suspend the authorisation of an organisation in accordance with rQ33 include, but are not limited to:

- Where an organisation fails to meet one or more of the mandatory criteria in the Authorisation Framework and/or the conditions of its authorisation in a way deemed by the BSB to be high-risk;
- Where an organisation has not been able to meet all or part of the requirements in any agreed plan for improvement;
- Where an organisation fails to be open and co-operative with the BSB;
- Where the BSB has received credible information of a serious nature about the AETO or the individuals within it; or
- Where the AETO fails to comply with the BSB Handbook.

7.3 In determining the length of any suspension, the BSB will consider factors such as:

- The nature and seriousness of the reasons giving rise to the consideration of suspension;
- Whether the imposition of a suspension, and the length of any suspension that might be imposed, is consistent with previous BSB decisions;
- The time and resources required by the AETO to complete any actions required by the BSB and/or the likelihood the organisation will be able to remedy a situation within a certain time-limited period;
- The conditions of the organisation’s original authorisation; and
- The impact on pupils that the decision may have. For example, the time required for them to secure alternative arrangements to complete their training.

7.4 There are a number of decisions which can be taken at the end of a period of suspension, ie: to lift a suspension; not to lift a suspension; or to withdraw an authorisation. These will be taken based on whether an AETO has addressed the issues which prompted the suspension. These decisions may be made in conjunction with a further rQ33 decision to vary or amend the conditions of authorisation for a period determined by the BSB, if the BSB considers it appropriate to do so. For example, if required actions have been completed but, in the view of the BSB, amended or new conditions are necessary to prevent a recurrence of the issue.

7.5 There will be no refund of the authorisation fee if an organisation's authorisation is suspended.

8 Withdrawal of authorisation

8.1 "Withdrawal" of authorisation means the removal of an organisation's status as an AETO until such time they are re-authorised as an AETO.

8.2 The BSB will only take a decision to withdraw an authorisation in the most serious situations. Such situations include, but are not limited to, where:

- An AETO is in, or is believed to be in, breach of the law or the BSB Handbook;
- An AETO's failure to meet one or more of the mandatory criteria is so significant that it is not appropriately dealt with through an improvement plan and/or a period of suspension. Examples include where an AETO fails to meet one mandatory criteria in a very high-risk way, or fails to meet a high number of the mandatory criteria;
- An AETO has repeatedly failed to be open and co-operative with the BSB;
- 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;
- An AETO has not demonstrated a genuine willingness to improve following an improvement plan and/or suspension of authorisation imposed by the BSB; or
- The BSB has any other good reason to believe that that the continued authorisation of the AETO would inhibit the Regulatory Objectives in another way.

8.3 If an AETO's authorisation is withdrawn, the organisation will be able to re-apply for authorisation as an AETO at any time, although they will be subject to any applicable authorisation fee(s).

8.4 There will be no refund of the authorisation fee if an organisation's authorisation is withdrawn.

9 Other regulatory action that may be taken by the BSB

9.1 Taking an rQ33 decision in line with this policy does not preclude the BSB from also taking other regulatory action. For example, taking a decision under rQ33 against an AETO where there has been harassment would not prevent us from taking disciplinary action under our enforcement regulations for the same conduct.

10 Review of decision

10.1 rQ34 of the BSB Handbook states:

An AETO which is dissatisfied by a decision in relation to rQ33 may apply to the BSB for a review.

10.2 An AETO wishing to apply to have a BSB decision reviewed may do so in writing using the prescribed application form. Reviews will be considered by an Independent Decision-Making Panel (IDP).

10.3 Decisions will not be put on hold pending a review.