

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

**REGULATORY OPERATIONS DEPARTMENT
AUTHORISATIONS TEAM**

CRITERIA AND GUIDELINES FOR APPLICATIONS FOR LICENSED ACCESS

These Notes are divided into two sections:

- A. Guidance Notes – General Procedure for applications and appeals**
- B. Criteria for applications**

<i>Nature of Application</i>	<i>Brief Summary</i>
1 Authorisation as a Licensed Access Client	This covers applications by organisations or individuals seeking a licence to instruct a barrister directly, i.e. without using a solicitor.
2 Licensed Access Amendment / Renewal	This covers applications by existing licence holders to amend their licence and/or to renew a licence that has expired or is due to expire.
3 OISC Licensed Access Registration / Renewal	This covers applications by Immigration Advice Agencies for registration or renewal of a licence to instruct a barrister directly, without using a solicitor. The applicant agency must be accredited by the Office of the Immigration Services Commissioner (OISC) at Level 2 or Level 3.
4 Professional Associations /	This covers applications by professional

Ombudsman Services – Schedules to the Licensed Access Recognition Regulations	associations and ombudsman services to be added to the Schedules to the Licensed Access Recognition Regulations. ¹ Inclusion of professional associations in the Schedules permits their members to instruct barristers directly (in matters which fall generally within the members' professional expertise). Inclusion of an ombudsman service in the Schedules permits the service to instruct barristers directly for advice (on points of law, practice or procedure arising in the course of the ombudsman's duties). In the case of an ombudsman service, there is no application fee.
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¹ For more information please refer to <https://www.barstandardsboard.org.uk/for-barristers/public-and-licensed-access/licensed-access-recognition-regulations.html>

A. Guidance Notes – General Procedure for applications and appeals

1 General

- 1.1 In these Notes, the Bar Standards Board and its staff are referred to as the “the BSB”. The BSB Handbook is referred to as “the Handbook”. The Bar Qualification Rules, which constitute Section 4B of the Handbook, are referred to as “BQR”.
- 1.2 These Notes set out the criteria and guidelines which the BSB applies in considering applications, and should be read carefully and in conjunction with the Handbook.

2 How applications are dealt with

- 2.1 Applications must be made on the current designated application, available from the BSB’s website, and accompanied by the relevant application fee.
- 2.2 Applications may either be submitted as hard-copies by post or as scanned copies by email. All applications must contain a hand-written signature.
- 2.3 The application fees for each type of application are listed on the BSB website. The preferred method of payment is bank transfer (BACS), the details for which are:

Bank Name:	Royal Bank of Scotland
Branch Name:	Childs, Fleet Street
Sort Code:	15-80-00
Account No:	62428522
Account Name/Alias:	General Council of the Bar
Currency:	GBP
Bank Identifier Code (BIC):	RBOSGB2L
International Bank Account No (IBAN):	GB60RBOS15800062428522

When paying by BACS, you must ensure that the BSB receives the full amount in Sterling: i.e. **you must pay all charges of your bank and agents charges, including those of the BSB.** This may include a handling charge levied by RBS if the issuing bank does not pay all bank charges.

- Please put a reference of “**AUTH**” against your name on the transaction to help identify the payment.
- Please provide proof of payment/a copy of your payment receipt with your application.
- If someone else is paying the fee on your behalf, please confirm the name of the person making the payment and any reference quoted.

If you are unable to pay by BACS, you may submit payment by cheque (made payable to the ‘Bar Standards Board’) or by credit/debit card. Please call the Authorisations Team on 020 7611 1444 to make a card payment.

Details of the Fee Waiver Policy are available on the BSB website.

- 2.4 All applications contain a declaration that the applicant has read, understood and complied with these Criteria and Guidelines.
- 2.5 Applications are considered and determined under the powers of the Bar Standards Board. The Bar Standards Board has delegated to BSB staff the ability to take decisions within the criteria and guidelines set out in this document.
- 2.6 An applicant must ensure that all supporting evidence is sent with the application form. Where original certificates or certified copies are required, these must be sent in hard-copy or emailed directly to the BSB by the awarding institution.
 - Any hard-copy documents will be scanned upon receipt. To facilitate this process, please ensure that documents supplied with an application are not stapled or submitted in individual plastic wallets.
 - If an applicant requires their original documents to be returned, they must provide a prepaid envelope for this purpose. If the documents

are to be returned by courier, it is the applicant's responsibility to arrange for courier and pay any necessary charges.

- 2.7 An application will not be treated as "complete" until the application form, required supporting documentation and application fee have been received. The BSB may request further information or documentation be supplied in support of an application, but applicants should note that it is the primary responsibility of the applicant to provide all relevant information and supporting evidence.
- Applicants should exercise judgement when selecting supporting evidence and ensure that only documentation that is relevant to the criteria set out in this document is supplied.
 - It is usually **not** appropriate to supply examples of work with an application. Any applicant who does supply such examples should ensure that documents that refer to third parties (e.g. clients) are suitably redacted so as to ensure anonymity. Any application that is supported by unredacted material will be returned to the applicant.
- 2.8 The BSB will take into account all the circumstances of the particular application and will apply the guidelines set out in these Notes.
- 2.9 All applications will be acknowledged in writing within seven days of receipt of the complete application form.
- 2.10 The BSB normally deals with all applications within eight weeks of receipt and notifies applicants of its decision within 10 days of a decision.
- 2.11 The BSB will treat all applications and any supporting documentation provided in the strictest confidence.
- 2.12 All enquiries about applications whether proposed or pending should be addressed to the BSB.

Online Resources

BSB website: www.barstandardsboard.org.uk

Applications forms and guidance notes: www.barstandardsboard.org.uk/training-qualification/barrister-training-waivers-and-exemptions.html

Contact details

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DX: 240 LDE Tel: 020 7611 1444

B. Criteria for applications

1	Authorisation as a Licensed Access Client
<p>Introduction</p> <p>1.1 An individual or organisation may apply for authorisation as a licensed access client.</p> <p>1.2 The application should be made on the appropriate prescribed form in typescript. Please note that applications will only be processed if made using the version of the appropriate application form current at the time the application is made. The completed application form should be accompanied by any relevant supporting documentation.</p> <p>1.3 For details of the application fee and payment methods for authorisation as a licensed access client, please refer to the Bar Standards Board website: www.barstandardsboard.org.uk/training-qualification/barrister-training-waivers-and-exemptions.html</p>	
<p>Rules</p> <p>1.4 Under Rule S24 of the Bar Standards Board Handbook, a barrister is generally only permitted to accept instructions from a professional client (i.e. a solicitor) or from a licensed access client.</p> <p>1.5 Licensed Access differs from public access (otherwise known as 'direct access'). A barrister registered for public access work may be instructed by, or on behalf of, a lay client (other than a licensed access client) who has not also instructed a solicitor or other professional client.</p> <p>1.6 The rules governing licensed access are set out in Section 2D2.2 of the Handbook.</p> <p>1.7 In considering applications for licensed access, the Bar Standards Board will have regard to the Licensed Access Recognition Regulations².</p>	

² For more information please refer to <https://www.barstandardsboard.org.uk/for-barristers/public-and-licensed-access/licensed-access-recognition-regulations.html>

Information and documentation

- 1.8 An applicant will be required to provide the following information and documentation:
- 1.8.1 Details of the applicant and of the work that the individual/organisation undertakes.
 - 1.8.2 Details of the type of matters in respect of which the applicant intends to instruct a barrister.
 - 1.8.3 Where the applicant intends to receive monies from third parties on trust, an accountant's certificate of satisfactory arrangements for keeping such monies separate.
 - 1.8.4 Details of insurance held in respect of claims for professional negligence (i.e. a policy statement/documents including details of the insurer, nature of risk insured, amount of cover and general policy details).
 - 1.8.5 Details of all individuals who will use the licence. Details of any relevant qualifications and experience, and a current CV, must also be provided for all individuals who will use the licence (**unless** the applicant body is a public authority, authorised regulatory authority/agency or chartered institute/society).

Criteria

- 1.9 *For applicants intending to instruct a barrister on behalf of the applicant individual/organisation, only*
- An application for authorisation as a licensed access client will be granted where the Bar Standards Board is satisfied:
- 1.9.1 the proposed user(s) of the licence are competent to instruct a barrister directly; and
 - 1.9.2 the proposed user(s) of the licence have demonstrated expertise, as a result of experience and/or training, in some identifiable area relevant to instructing a barrister.
- 1.10 *For applicants intending to instruct a barrister on behalf of third parties (e.g. employees, customers/clients, etc)*
- An application for authorisation as a licensed access client will be granted where

the Bar Standards Board is satisfied:

- 1.10.1 the proposed user(s) of the licence are competent to instruct a barrister directly; and
- 1.10.2 the proposed user(s) of the licence have demonstrated expertise, as a result of experience and/or training, in some identifiable area relevant to instructing a barrister; and
- 1.10.3 the applicant is adequately insured against claims for negligence; and
- 1.10.4 the applicant has made, and continues to comply with, satisfactory arrangements for holding in separate accounts and maintaining as trust monies, any monies received from third parties; and
- 1.10.5 the applicant will add genuine value to its service to clients, rather than simply acting as an intermediary between barrister and client.

Guidelines

1.11 Where the Bar Standards Board is satisfied that it is appropriate to approve an applicant as a licensed access client, it will grant a licence specifying the following:

- 1.11.1 The time period for which the licence is valid. The standard period is three years, but a licence may sometimes be granted for a shorter period in the first instance.
- 1.11.2 The names of the individuals entitled to use the licence.
- 1.11.3 Any limitations or conditions to which the licence is subject.

2	Amendment / Renewal of an existing licence
Introduction	
2.1	Any licence holder may seek renewal and/or amendment of an existing licence (e.g. the addition/deletion of named users of the licence, changes to the scope of the licence).
2.2	The application should be made on the appropriate prescribed form in typescript. Please note that applications will only be processed if made using the version of the appropriate application form current at the time the application is made. The completed application form should be accompanied by any relevant supporting documentation.
2.3	For details of the application fees and payment methods for renewal and/or amendment of an existing licence, please refer to the Bar Standards Board website: www.barstandardsboard.org.uk/qualifying-as-a-barrister/bar-training-requirements/forms-and-guidelines/applications-authorisations,-exemptions,-waivers-and-reviews/
Rules	
2.4	The Bar Standards Board has the power to amend and/or renew any existing licence.
2.5	In considering applications for amendment and/or renewal of licensed access, the Bar Standards Board will have regard to the Licensed Access Recognition Regulations ³ .
Information and documentation	
2.6	An applicant will be required to provide the following information and documentation:
2.6.1	Details of the types of cases in which the licence has been used to instruct barristers, since it was issued.

³ For more information please refer to <https://www.barstandardsboard.org.uk/regulatory-requirements/for-barristers/licensed-access-recognition-regulations/>

- 2.6.2 Details of any complaints and/or grievances raised in connection with the licence, and how they have been resolved.
- 2.6.3 Amendments (scope of licence): confirmation of any intended change to the scope of the existing licence. Further information is required from organisations wishing to extend their licence to instruct on behalf of third parties (employees, clients, etc.).
- 2.6.4 Amendments (named users): confirmation of any intended change to the named users of the licence (e.g. the deletion of named users from the existing licence and/or the addition of new named users). An applicant will be required to provide equivalent information to that required for an original authorisation application (i.e. a CV and details of any relevant qualifications and experience for all new named users of the licence, **unless** the body is a public authority, authorised regulatory authority/agency or chartered institute/society).

Criteria

- 2.7 When considering a reapplication, the Bar Standards Board will have regard to the same criteria as for an initial application (see sections 1.9-1.10 above).

Guidelines

- 2.8 An application for renewal of an existing licence may be submitted up to six months before it is due to expire or up to six months after it has expired. If the application is successful, the licence will be renewed for a further three years from the date on which the application is approved, regardless of the expiry date of the existing licence.
- 2.9 An application for renewal of an existing licence submitted more than six months after the licence has expired will not be accepted. In these circumstances, a new authorisation application must be submitted, together with any relevant supporting documentation and payment of the application fee.

3	OISC Licensed Access Registration / Renewal
3.1	An Immigration Advice Agency may apply for registration as a licensed access client. If granted, the licence is renewable on an annual basis.
3.2	The applicant Agency must be accredited by the Office of the Immigration Services Commissioner (OISC) at Level 2 or Level 3. A copy of the applicant Agency's current OISC registration certificate must be provided.
3.3	The application should be made on the appropriate prescribed form in typescript. Please note that applications will only be processed if made using the version of the appropriate application form current at the time the application is made.
3.4	The application form must be completed and signed by a member of the Governing Body of the applicant Agency (i.e. a member of the Board of Directors, a Trustee, Chief Executive or equivalent).
3.5	For details of the application fees and payment methods for registration and renewal of OISC licensed access, please refer to the Bar Standards Board website: www.barstandardsboard.org.uk/training-qualification/barrister-training-waivers-and-exemptions.html
3.6	The Bar Standards Board has the power to amend and/or renew any existing licence.

4	Professional Associations / Ombudsman Services – Schedules to the Licensed Access Recognition Regulations
Introduction	
4.1	Professional associations and ombudsman services may apply to be added to the Schedules to the Licensed Access Recognition Regulations. ⁴ Inclusion of professional associations in the Schedules permits their members to instruct barristers directly (in matters which fall generally within the members’ professional expertise). Inclusion of an ombudsman service in the Schedules permits the service to instruct barristers directly for advice (on points of law, practice or procedure arising in the course of the ombudsman’s duties).
4.2	The application should be made on the appropriate prescribed form in typescript. Please note that applications will only be processed if made using the version of the appropriate application form current at the time the application is made. The completed application form should be accompanied by any relevant supporting documentation.
4.3	In the case of professional associations, for details of the application fees and payment methods please refer to the Bar Standards Board website: www.barstandardsboard.org.uk/training-qualification/barrister-training-waivers-and-exemptions.html
4.4	In the case of an ombudsman service, there is no application fee.
Rules	
4.5	The Bar Standards Board has the power to add professional associations and ombudsman services to the Schedules to the Licensed Access Recognition Regulations.
4.6	In considering applications from professional associations and ombudsman services to be added to the Schedules, the Bar Standards Board will have regard to the Licensed Access Recognition Regulations.
Information and documentation	

⁴ For more information please refer to <https://www.barstandardsboard.org.uk/regulatory-requirements/for-barristers/licensed-access-recognition-regulations/>

- 4.7 In the case of a professional association, an applicant organisation will be required to provide the following information and documentation:
- 4.7.1 The profession of its members e.g. accountants/taxation advisers, insolvency practitioners, architects/surveyors/town planners, etc.
 - 4.7.2 The services for which its members are likely to wish to use licensed access: advice/advocacy/arbitration/adjudication/mediation.
 - 4.7.3 Details of the type of case in which its members are likely to wish to instruct a barrister.
 - 4.7.4 Whether its members are likely to wish to instruct a barrister on their own behalf and/or on behalf of third parties (employers/employees/customers/clients/others).
 - 4.7.5 If its members are likely to wish to instruct a barrister on behalf of third parties, whether the members are required to hold professional negligence insurance/keep monies held on trust separate from their own monies.
 - 4.7.6 Details of the professional or other relevant qualifications which its members are required to obtain.
 - 4.7.7 Details of the professional or other relevant training which its members are required and/or reasonably expected to undertake.
 - 4.7.8 Whether its members are governed by any regulatory authorities/subject to professional, disciplinary, regulatory and/or other organisational rules. If so, a copy/copies of the rules must be provided.
- 4.8 In the case of an ombudsman service, an applicant organisation will be required to provide the following information and documentation:
- 4.8.1 Whether the ombudsman is a free and impartial service.
 - 4.8.2 Whether the ombudsman service is (1) a statutory organisation appointed by government or (2) a certified non-statutory body. If the ombudsman service is a non-statutory body, evidence of certification by the relevant competent authority must be provided.
 - 4.8.3 The area(s) in which the ombudsman provides a service.
 - 4.8.4 Details of the rules to which the performance of the ombudsman's duties

is subject e.g. who can complain, about what, any time limits, how complaints are informally resolved/investigated, determinations and awards by the ombudsman, etc. A copy of the rules must be provided.

Criteria

- 4.9 An application from a professional association to be added to the Schedules to the Licensed Access Recognition Regulations will be granted where the Bar Standards Board is satisfied:
- 4.9.1 Its members are competent to instruct a barrister directly;
 - 4.9.2 Its members have demonstrated expertise, as a result of experience and/or training, in some identifiable area relevant to instructing a barrister;
 - 4.9.3 Its members, where they are likely to wish to instruct a barrister on behalf of third parties, are (1) required to hold adequate professional negligence insurance, (2) required to comply with satisfactory arrangements for holding in separate accounts, and maintaining as trust monies, any monies received from third parties, and (3) would by instructing a barrister add genuine value to their services to clients, rather than simply acting as intermediaries between barristers and clients; and
 - 4.9.4 Its members are governed by a regulatory authority/authorities and subject to some appropriate professional, disciplinary, regulatory and/or other organisational rules.
- 4.10 An application from an ombudsman service to be added to the Schedules to the Licensed Access Recognition Regulations will be granted where the Bar Standards Board is satisfied:
- 4.10.1 The ombudsman is a free and impartial service which is either (1) a statutory organisation appointed by government and authorised to investigate complaints, or (2) a non-statutory body which is certified as a provider of alternate dispute resolution by the Trading Standards Institute or other competent authority (as set out in the Consumer Protection, Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015);
 - 4.10.2 The ombudsman provides a service in some identifiable area(s) relevant to instructing a barrister;

4.10.3 The performance of the ombudsman's duties is subject to appropriate rules, including (but not limited to) who can complain, about what, any time limits, how complaints are informally resolved/investigated and determinations and awards by the ombudsman.

Guidelines

- 4.11 If a professional association or ombudsman service is added to the Schedules to the Licensed Access Recognition Regulations, they will normally be included in the Schedules indefinitely (unless the organisation asks to be removed or is disbanded).
- 4.12 In the case of a professional association, inclusion in the Schedules will permit its members to instruct barristers in matters which fall generally within the members' professional expertise. They will be permitted to instruct barristers directly either on their own behalf, or on behalf of their employers/employees/clients/customers. However, this may be made subject to such limitations or conditions as the Bar Standards Board considers appropriate.
- 4.13 In the case of an ombudsman service, inclusion in the Schedules will permit the service to instruct barristers directly for advice (on points of law, practice or procedure arising in the course of the ombudsman's duties). However, this may be made subject to such limitations or conditions as the Bar Standards Board considers appropriate.