

BAR
STANDARDS
BOARD

REGULATING BARRISTERS

Future Bar Training:

Consultation on the proposed rules for the training framework
for the Bar

July 2018

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About the BSB and what we do

1. The Bar Standards Board is the regulator of barristers in England and Wales. We are responsible for setting the education and training requirements for those who wish to practise as barristers.
2. In exercising our regulatory functions, we must act in a way that is compatible with our regulatory objectives and which we consider most appropriate for the purposes of meeting those objectives. These are:
 - protecting and promoting the public interest;
 - supporting the constitutional principle of the rule of law;
 - improving access to justice;
 - protecting and promoting the interests of consumers;
 - promoting competition in the provision of legal services;
 - encouraging an independent, strong, diverse and effective legal profession;
 - increasing public understanding of citizens' legal rights and duties; and
 - promoting and maintaining adherence to the professional principles.
3. In addition to the regulatory objectives, we have adopted two principles of good regulatory practice, which are set out by the Legal Services Board in its regulatory standards framework:
 - outcomes focused regulation; and
 - risk and evidence-based regulation.
4. We must also have regard to the principles under which activities should be transparent, accountable, proportionate, consistent, and targeted only at cases where action is needed, in addition to any other principle appearing to us to represent best regulatory practice.
5. The primary source of our regulatory arrangements is the BSB Handbook, which incorporates the Code of Conduct and the Bar Qualification Rules.

The BSB's role in education and training

6. Barristers play a vital role in the administration of justice. They must demonstrate a high standard of professional practice to justify the trust placed

in them by the public and other professionals. Regulatory oversight of how people train to become barristers is, therefore, important.

7. Currently, prospective barristers train under a single¹, BSB prescribed route involving higher education institutions and providers of professional training. The Inns of Court also play an important role: they alone confer the title of barrister through “Call to the Bar” and they make important contributions to the ethical and other professional development of barristers during their training and throughout their careers.
8. The BSB sets the requirements which prospective barristers must satisfy in order to be Called to the Bar, and the further requirements needed for being authorised to practise.
9. In addition to the BSB’s own regulatory framework, the Legal Services Board (LSB) has published statutory guidance under the Legal Services Act 2007, specific to legal education and training, to which we must adhere.

The Future Bar Training (FBT) programme

10. Over the last few years, the Bar Standards Board has been reviewing the way in which barristers in England and Wales train and qualify. This process of research, consultation, review and regulatory change is known as our Future Bar Training (FBT) programme.

2013: The Legal Education and Training Review

11. The Legal Education and Training Review (LETR) was a joint project of the Solicitors Regulation Authority (SRA), the BSB and the Chartered Institute of Legal Executives (CILEx) Regulation. It constituted a fundamental, evidence-based review of education and training across regulated and non-regulated legal services in England and Wales.
12. The Future Bar Training Programme (FBT) was launched in response to the LETR. The FBT work built on reforms to education and training for the Bar which had already taken place between 2006 and 2012, based on reviews led by Derek Wood QC (the “Wood Reviews”).
13. The FBT programme has focused on:
 - how training should be regulated to best meet the needs of professional practice;
 - ensuring that regulatory requirements do not restrict access to the Bar;
 - ensuring that the requirements for education and training are targeted on the desired outcomes and are proportionate; and

¹ Unless the BSB has granted a waiver

- maintaining the standards which must be met at the point where someone is authorised to practise.

2015: The Professional Statement

14. In February 2015, we published [our vision for the future of training for the Bar](#) and we issued our wide-ranging [consultation paper on the academic, vocational and professional stages of training](#) in July 2015.
15. We first published the Professional Statement for Barristers in October 2015. This describes the knowledge, skills and attributes that a newly qualified barrister should have when issued with a Full Practising Certificate.

2016: Future routes to authorisation consultation and updated Professional Statement

16. In October 2016, we launched a consultation describing three different regulatory approaches to how students might train to be authorised. In this consultation, we set out the four principles which would be key to determining our future reform programme. These four principles are encouraging greater flexibility, improving accessibility, improving affordability and maintaining high standards.
17. We also updated the [Professional Statement for Barristers incorporating the Threshold Standards and Competences](#).

2017: The “Managed Pathways” approach

18. In March 2017, we announced our decision to pursue a [“Managed Pathways” regulatory approach](#). Additionally, we confirmed that the Bar would remain a graduate profession, that students would normally be required to have at least a lower second class degree, and that the Bar Course Aptitude Test and BSB-controlled centralised assessments would remain mandatory.
19. The effect of this decision was a move away from the highly prescriptive Bar Professional Training Course model, in which the Bar Professional Training Course (BPTC) was the single course allowing people to qualify to be Called to the Bar and be eligible for pupillage. The new system will enable new training programmes to be developed for prospective barristers, with the focus being on meeting the threshold standards and competences of the Professional Statement.

2018: The role of the Inns of Court

20. In March 2018, we announced a number of decisions relating to the ongoing [role of the Inns of Court in Bar training](#).
21. These decisions confirmed that the Inns of Court would continue to have an important role in the education and training of barristers. We committed to working in partnership with the Inns to ensure that any functions carried out by them as part of the BSB’s regulatory arrangements are fit for purpose and that there is appropriate regulatory oversight of such activities. This process will

conclude with a new Memorandum of Understanding (MoU) being developed between the BSB, the Council of the Inns of Court (COIC) and each of the four Inns of Court.

2018: New arrangements for pupillage and the Authorisation Framework

22. In May 2018, we issued a policy statement on [pupillage and other forms of work-based learning \(WBL\), the authorisation framework, and the Curriculum and Assessment Strategy for Bar training](#).
23. The new arrangements for pupillage and other forms of work-based learning include those relating to:
 - The authorisation of Authorised Education and Training Organisations (AETOs) to provide pupillage;
 - the duration of pupillage;
 - the point at which a pupil may apply for a Provisional Practising Certificate;
 - the ratio of pupils to pupil supervisors, based on whether in an employed or self-employed setting;
 - pupil supervisor training;
 - the minimum pupillage funding award; and
 - the removal of the automatic waiver from the pupillage funding requirements for transferring lawyers.
24. The Authorisation Framework, and its annexes, will be the tools that enable organisations seeking authorisation by the BSB to understand what their proposals need to address, and will enable us to assess those proposals and to determine whether they are fit for purpose. The [draft Authorisation Framework](#) can be found on the BSB website.

About this consultation

25. This consultation is one of the final steps in the FBT programme. It presents a new set of qualification rules that will replace the Part 4 Qualification Rules of the current BSB Handbook and give effect to the FBT Policy Statements made by the BSB since 2017.
26. The purpose of this consultation is to provide respondents with an opportunity to evaluate and comment on whether the proposed new rules provide a sufficient framework to give effect to the policies we have decided, and whether the rules are sufficiently clear.
27. Importantly, the rules themselves do not seek to capture every policy decision. This consultation explains the general approach taken and how additional detail

will be specified by the BSB via, for example, the accompanying Authorisation Framework and a Memorandum of Understanding with the Inns of Court.

28. The views received in response to this consultation will be used to help finalise the new Part 4 Qualification rules in the BSB Handbook. Please note that, while the BSB welcomes all responses, the purpose of this consultation is not to reconsider the policy decisions underpinning the proposed rule changes. The purpose is to consider whether the rules, as drafted in Annex 1, appropriately reflect the policy decisions the BSB has already taken.

Duration of the consultation

29. The consultation will run for 8 weeks and will close on **17 September 2018 at 5pm**.

When will the new rules come into force?

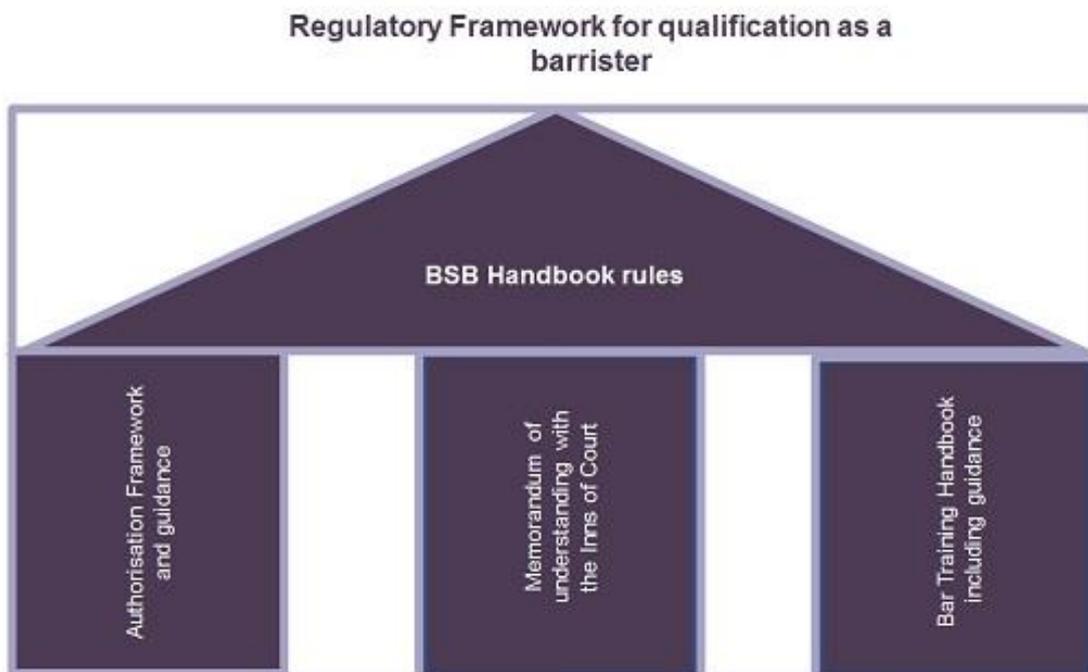
30. Once this consultation has closed, the responses will be analysed and will contribute to the Board's discussion regarding the drafting of the rules. The revised rules will then be submitted to the Legal Services Board for approval and, if approved, will take effect from January 2019 at the earliest. Assuming providers come forward with satisfactory proposals, we therefore expect that students *may* begin training under the new system from the academic year 2019-20. We recognise that significantly new programmes are unlikely to start before 2020-21 because of the lead times on course approval and advertising for higher education institutions.
31. When we introduce the new rules, and approve new programmes under them, we will set out appropriate transitional arrangements. For example, students already undertaking education and training under the old rules will not normally need to switch courses (subject to certain time limits). Law programmes, the BPTC and pupillages will continue to be provided and no student will be disproportionately adversely affected by the changes.

Proposed new rules framework

32. The proposed new rules will support the new approach to Bar training as a means for students to meet the requirements of the Professional Statement. For reference, the current Part 4 Qualification Rules can be accessed [here](#).
33. The new rules will set the high-level framework for our new arrangements. In drafting them we have sought to retain only those matters that are most appropriately dealt with in rules. More detailed requirements will be dealt with elsewhere, for example:

- The rules refer to the Authorisation Framework, which will set out the detailed arrangements for approving AETOs to provide components of the training pathways permitted by the BSB.
- The rules require the BSB to set out a number of requirements in relation to the activities of the Inns of Court. These, and any other activities undertaken by the Inns, will be detailed in an MoU between the BSB, the Council of the Inns of Court (COIC) and the four Inns of Court. The new rules, combined with an MoU, give the BSB and the Inns certainty around the administration of the arrangements. We do not believe it is appropriate for such arrangements to be dealt with in the BSB Handbook, as the Inns are not bound by the Handbook (unlike barristers, students or AETOs).
- The BSB will also provide supplementary policy documents, which will set out what is expected of any provider of training. The Authorisation Framework will refer to these and any AETO authorisation will be conditional on complying with any requirements set out elsewhere. For example, a Bar Training Handbook will set out some of the detail that is expected in relation to implementation of the training, and the curriculum and assessment requirements.
- The BSB may also provide additional information or guidance promoting good practice.

Figure 1: the proposed rules framework for education and training



The Authorisation Framework

34. All organisations that offer the vocational and/or pupillage or work-based learning components of the training (including where combined with another component such as the academic component) will be subject to the Authorisation Framework.
35. The Authorisation Framework will be used by the BSB to set out all mandatory requirements for an organisation to become an AETO, including adherence to the four FBT principles identified in the 2016 consultation:
 - encouraging greater flexibility – so that the training system enables innovation in how education and training is delivered;
 - improving accessibility – so that the best candidates can train as barristers and that the Bar 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.
36. Both the vocational component and the pupillage component of all new pathways will have to adhere to the new Curriculum and Assessment Strategy and any additional guidance published by the BSB.
37. The Authorisation Framework will also help the BSB to assess training programmes/courses against the above criteria, setting out the requirements for each mandatory component of training in order to meet the requirements of the Professional Statement and be eligible to practise as a barrister.
38. The BSB will provide support and guidance to help make the authorisation process as transparent and manageable as possible, and detailed mandatory criteria for the relevant training component will be made clear in any authorisation by the BSB. Once authorised, AETOs would be expected to follow any requirements set out in supporting documents (see below).

The Memorandum of Understanding with the Inns

39. The MoU will set out the mutual obligations between the BSB, COIC and each of the four Inns, in relation to the education and training of barristers.
40. It will address student membership of an Inn, student conduct, qualifying sessions and fit and proper person checks. It will also describe how the activities will be planned and monitored in accordance with the four principles of our FBT reforms and the principles of good regulatory practice: transparency, accountability, proportionality, consistency and targeting. This will ensure that the BSB, COIC and the Inns have clearly articulated obligations relating to students and appropriate mechanisms to monitor the administration of the arrangements.

The Bar Training Handbook

41. Further information and guidance may be provided by the BSB to supplement the mandatory elements of the Authorisation Framework, the MoU and to provide clarity for students. The Authorisation Framework will refer to these additional publications and the authorisation of AETOs will be subject to compliance with any requirements. This will include, for example, any detailed requirements in relation to the delivery of pupillage (more information on which is included at paragraphs 55 – 59 below). There will also be additional information provided as good practice guidance for AETOs (for example, in relation to pupillage recruitment).

How do the new rules achieve this?

Routes to qualification (rules Q3 to Q28)

42. The rules set out at a high level the components of training required to be:
- Called to the Bar;
 - issued with a provisional practising certificate (to undertake the practising period of pupillage); and
 - issued with a full practising certificate.
43. Further details of how this is to be achieved will be provided in the Authorisation Framework and in authorisation agreements with AETOs. For example, the mandatory components of training in each authorised pathway are described, as are the requirements for beginning each component of training. Further requirements on AETOs may be imposed as part of their authorisation agreement with the BSB.

The role of the Inns of Court

44. The new rules framework sets out, at a high level, the continuing role of the Inns of Court in the education and training of prospective barristers. In addition to calling individuals to the Bar there continues to be a requirement to undertake qualifying sessions with an Inn (rule Q3.3). Rule Q6 provides for the BSB to set out in writing:
- Requirements to be met by the Inns when admitting student members and calling individuals to the Bar;
 - The manner in which an Inn should assess whether someone is fit and proper to be called; and
 - The minimum requirements for delivering qualifying sessions.
45. The MoU will set out the detail to give effect to the rules in this area, in particular that:
- students continue to be required to be a member of an Inn;

- student conduct is overseen in partnership between the BSB and the Inns of Court, with strengthened quality assurance/compliance arrangements in place;
- the Inns of Court will continue to administer the “Fit and Proper Person” and other pre-Call checks;
- ‘Standard’ Disclosure and Barring Service checks will be made; and
- students will still be required to complete a series of professional development activities provided by their Inn (“Qualifying Sessions”), prior to Call.

Authorised Education and Training Organisations (rules Q29 to Q34)

46. The rules set a framework to enable the BSB to approve organisations as an AETO. In order to decide whether they are appropriate, the BSB will refer to the Authorisation Framework, which sets a number of mandatory and recommended criteria. The BSB will need to be satisfied that a potential AETO meets the mandatory criteria and is overall a suitable provider of training.
47. The BSB will be able to attach conditions to an authorisation and will also be able to vary, amend, suspend or withdraw authorisation for the reasons set out in rule Q33. These rules will be supported by our risk-based supervision of AETOs to ensure we can satisfy ourselves in a proportionate way that training is being delivered effectively.
48. The BSB’s relationship with AETOs will be vital to ensuring the quality of training at the Bar and the authorisation process, agreements with AETOs and supporting guidance on delivery of training will give effect to the Board’s decisions that would previously have been included in rules, some of which are summarised below for illustrative purposes.

Reviews and appeals (rules Q35 to Q40)

49. The new rules framework provides for applicants to review or appeal decisions, where provided for in Part 4.

Exemptions and transferring lawyers

50. The rules include a general power for the BSB to waive training requirements where appropriate (in common with our current rules and other parts of the Handbook). The rules also retain existing arrangements for transferring lawyers. For that reason, we have left these rules largely unchanged but we will review them in due course (this will in part be necessary as the arrangements for the UK’s departure from the European Union become clear, given the dependencies on EU legislation).

Enabling the new framework for Bar training

51. We describe above how the different elements of the framework sit together and the rationale for not including all requirements in the rules. This section summarises some of the key components that will also be part of the new framework to give an overview of how it will work in practice.
52. The new regulatory framework must enable AETOs to deliver education and training as one (or part) of the example pathways set out in the Authorisation Framework. Each pathway must accord with the following aspects of the BSB's policy decision of March 2017. The Authorisation Framework will specify that:
 - there be an academic, vocational, and pupillage or work-based learning component of the training;
 - the Bar should remain a graduate profession normally requiring achievement of at least a 2:2 degree classification;
 - the academic component should incorporate the seven foundations of legal knowledge subjects which currently make up a qualifying law degree; and
 - passing the Bar Course Aptitude Test should remain a requirement prior to the vocational component.

Academic legal training component

53. In our March 2017 policy statement, we stated that we would no longer regulate academic legal training and the requirements of the qualifying law degree will cease when these new rules take effect. Although we will not regulate the academic legal training component, we have said that the seven subjects known as the "foundations of legal knowledge" will remain necessary and this is reflected in the draft rules.

Vocational training component

54. The mandatory training requirements for the vocational component are specified within the Authorisation Framework. As the requirement for qualifying sessions remains, these must be completed before concluding the vocational component. The BSB will specify minimum requirements in a written statement under rule Q6 and the oversight of these will be dealt with in the MoU.

Pupillage and other forms of work-based learning component

55. The arrangements will ensure that AETOs providing pupillage do so according to the requirements set out by the Board in May 2018. The following will not be specified in rules, but through a Bar Training Handbook provided by the BSB.
56. Regarding the duration of pupillage, and the elements of it:
 - the presumed duration of pupillage 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; and
- when seeking authorisation AETOs will be required to demonstrate why the duration of the pupillage they offer is appropriate if it varies from the presumption of 12 months.
- the length of the non-practising period of pupillage will normally be six months for full-time 12-month pupillage, after which a provisional practising certificate (PPC) may be applied for:
 - AETOs may apply for a variation to this, as part of the authorisation process, if it varies from the presumption of six months.

57. Minimum pupillage funding award²:

- the minimum pupillage 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:
 - AETOs must make monthly payments to pupils, subject to where other flexible payment arrangements are permitted (such as upfront payments); and
 - 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.
- there will be no automatic exemption from the pupillage funding for transferring lawyers.

58. Supervision of pupils:

- the number of pupils allowed to be supervised per pupil supervisor at any one time will be as follows:
 - 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.
- in relation to pupil supervisor training:
 - the BSB will prescribe outcomes for pupil supervisor training;

² The rules relating to pupillage funding are currently set out in Part 2 of the Handbook. We propose to remove these and deal with funding arrangements via the Bar Training Handbook and agreements with AETOs.

- supervisor training will continue to be open to providers other than the Inns;
 - the BSB will seek assurance from AETOs that pupil supervisors have met the required training outcomes; 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.
59. The pupillage advertising requirements will not be changing. These rules, however, have been removed as they can best be captured alongside the above requirements in the Bar Training Handbook.

Continuing Professional Development rules and other consequential amendments

60. The Continuing Professional Development (CPD) rules were introduced in January 2017. This section of the Part 4 rules will remain unchanged, save for numbering and minor wording amendments to take account of terminology and language used in the new Part 4 Qualification rules.
61. Other minor and consequential amendments to the BSB Handbook will be undertaken, where necessary to take account of the changes discussed in this document, prior to the new rules coming into force in 2019.

Consultation questions

1. Do you think that the proposed rules provide the necessary regulatory framework to give effect to the new Bar Training scheme? Please explain your views.
2. Is the drafting of the proposed rules sufficiently clear and precise? Please explain your view.

How to respond to this consultation

62. The deadline for this consultation is **17 September 2018 at 5pm**. You do not need to wait until the deadline to respond to this consultation. **Please use the form provided to submit your response to:** futurebartraining@BarStandardsBoard.org.uk
63. If you have a disability and have a requirement to access this consultation in an alternative format, such as larger print or audio, please let us know. Please let us know if there is anything else we can do to facilitate feedback other than via written responses.

64. Whatever form your response takes, we will normally want to make it public and attribute it to you or your organisation, and publish a list of respondents. If you do not want to be named as a respondent to this consultation please set this out in your response.

Annex 1

PART 4

BAR QUALIFICATION RULES

A. APPLICATION OF THESE RULES

rQ1 Section 4.B applies to all individuals who wish to be *called to the Bar* and to become qualified to practise as a *barrister* and to *authorised education and training organisations*.

rQ2 Section 4.C applies to all *practising barristers*.

B. BAR QUALIFICATION RULES

B1. Purpose of the Bar Qualification Rules

oQ1 To provide routes for the qualification of *barristers* that enable them to meet the Professional Statement and to provide for the regulation of *Authorised Education and Training Organisations*.

B2. Routes to Qualification as a *barrister* and *authorised person*

rQ3 To be called to the *Bar* an individual must have successfully completed the following:

.1 *academic legal training;*

.2 *vocational training;*

- .3 the number of *qualifying sessions* as a student member of an *Inn* as prescribed from time to time by the *BSB*; and
- .4 pay such fee or fees as may be prescribed.

rQ4 To obtain a *provisional practising certificate* a *barrister* must:

- .1 have successfully completed a period of *pupillage* satisfactory to the *BSB*;
- .2 pay such fee or fees as may be prescribed.

rQ5 To obtain a *full practising certificate* a *barrister* must:

- .1 have completed a further period of *pupillage* satisfactory to the *BSB*;
- 2. pay such fee or fees as may be prescribed.

rQ6 The *BSB* shall set out in writing:

- .1 the requirements to be met by an *Inn* in admitting student members and calling individuals to the *Bar*;
- .2 the manner in which an *Inn* shall assess whether such individuals are fit and proper; and
- .3 the minimum requirements for delivering *qualifying sessions*.

rQ7 The *BSB* may grant exemptions from all or part of the requirements set out in rQ3 to rQ5 above.

rQ8 In exercising its discretion whether to grant an exemption from part or all of any component of training, the *BSB* will determine whether the relevant knowledge and experience of the applicant make it unnecessary for the applicant to do such training.

rQ9 An exemption from part or all components of training may be granted unconditionally or subject to conditions, which may include in an appropriate case:

.1 a requirement to do training instead of the training prescribed by this Part 4; and/or

.2 a condition that the applicant must pass a *Bar Transfer Test*.

rQ10 Where the *BSB* exempts an individual pursuant to rQ7 above, it may also:

.1 grant exemption in whole or in part from the requirement to attend *qualifying sessions*; and

.2 specify the period within which any requirement to attend *qualifying sessions* must be fulfilled, which may be a period ending after the individual concerned has been called to the *Bar*.

Exemptions

rQ11 An application for exemption under this Section must be in such form as may be prescribed by the *BSB* and contain or be accompanied by the following:

.1 details of the applicant's educational and professional qualifications and experience;

.2 evidence (where applicable) that the applicant is or has been entitled to exercise rights of audience before any *court*, specifying the rights concerned and the basis of the applicant's entitlement to exercise such rights;

- .3 any other representations or evidence on which the applicant wishes to rely in support of the application;
- .4 verified English translations of every document relied on which is not in the English language; and
- .5 payment of such fee or fees as may be prescribed.

rQ12 Before deciding whether to grant any exemption under this Section, the *BSB* may make any further enquiries or require the applicant to provide any further information that it considers relevant.

Full exemption

rQ13 If the *BSB* is satisfied that an applicant falls within Rule Q14, the *BSB* will:

- .1 exempt the applicant from any component of training prescribed by this Part 4 which the applicant has not fulfilled; and
- .2 authorise the applicant to practise as a *barrister* on their being admitted to an *Inn* and called to the *Bar* subject to complying with the Handbook.

rQ14 The following categories of individual fall within this Rule:

- .1 an individual who has been granted rights of audience by an *approved regulator* and who is entitled to exercise those rights in relation to all proceedings in all courts of England and Wales;
- .2 subject to Rule rQ15, an individual who has been granted rights of audience by an *approved regulator* and who is entitled to exercise those rights in relation to either all proceedings in the High Court or all proceedings in the Crown Court of England and Wales (but not both);

- .3 a *barrister* of Northern Ireland who has successfully completed *pupillage* in accordance with the rules of the *Bar* of Northern Ireland;
- .4 subject to Rule rQ16, a *Qualified European Lawyer*.

rQ15 The *BSB* may exceptionally require an applicant who falls within Rule rQ14.2 to do part of *pupillage* if it considers this necessary having regard particularly to the knowledge, professional experience and intended future *practice* of the applicant.

rQ16 Subject to Rules rQ18 to rQ20, the *BSB* may require a *Qualified European Lawyer* to pass a *Bar Transfer Test* if the *BSB* determines that:

- .1 the matters covered by the education and training of the applicant differ substantially from those covered by the *academic legal training* and the *vocational training*; and
- .2 the knowledge acquired by the applicant throughout their professional experience does not fully cover this substantial difference.

Registered European Lawyers

rQ17 The Rules governing registration as a *Registered European Lawyer* are in Section 3.D of this *Handbook*.

rQ18 The *BSB* may not require an applicant who is a *Registered European Lawyer* and who falls within Rule rQ20 or rQ21 to pass a *Bar Transfer Test* unless it considers that the applicant is unfit to *practise* as a *barrister*.

rQ19 In considering whether to require an applicant who falls within Rule rQ21 to pass a *Bar Transfer Test*, the *BSB* must:

- .1 take into account the professional activities the applicant has pursued while a *Registered European Lawyer* and any knowledge and professional experience gained of, and any training received in, the law

of any part of the United Kingdom and of the rules of professional conduct of the *Bar*, and

- .2 assess and verify at an interview the applicant's effective and regular pursuit of professional activities and capacity to continue the activities pursued.

rQ20 To fall within this Rule an applicant must have:

- .1 for a period of at least three years been a *Registered European Lawyer*, and
- .2 for a period of at least three years effectively and regularly pursued in England and Wales under a *Home Professional Title* professional activities in the law of England and Wales.

rQ21 To fall within this Rule an applicant must have:

- .1 for a period of at least three years been a *Registered European Lawyer*, and
- .2 for a period of at least three years effectively and regularly pursued in England and Wales professional activities under a *Home Professional Title*; and
- .3 for a period of less than three years effectively and regularly pursued in England and Wales under a *Home Professional Title* professional activities in the law of England and Wales.

rQ22 For the purpose of this Part 4, activities are to be regarded as effectively and regularly pursued if they are actually exercised without any interruptions other than those resulting from the events of everyday life.

Partial exemption

rQ23 If the *BSB* is satisfied that an applicant falls within Rule rQ24, the *BSB* will exempt the applicant from the *academic legal training* and the *vocational training* and, if the *BSB* thinks fit, from part or all of *pupillage*.

rQ24 The following categories of individual fall within this Rule:

- .1 an individual who has been granted rights of audience by another *Approved Regulator* and is entitled to exercise those rights in relation to any class of proceedings in any of the *Senior Courts* or all proceedings in county courts or magistrates' courts in England and Wales;
- .2 a *Qualified Foreign Lawyer* who has for a period of at least three years regularly exercised full rights of audience in courts which administer law substantially similar to the common law of England and Wales;
- .3 a teacher of the law of England and Wales of experience and academic distinction.

Temporary call to the Bar of Qualified Foreign Lawyers

rQ25 A *Qualified Foreign Lawyer* ("the applicant") who falls within Rule rQ24.2 may apply to be called to the *Bar* on a temporary basis for the purpose of appearing as counsel in a particular case before a *court* of England and Wales without being required to satisfy any other requirements of this Part 4 if the applicant has:

- .1 obtained from the *BSB* and submitted to an *Inn* a *Temporary Qualification Certificate* specifying the case for the purposes of which the applicant is authorised to be called to the *Bar*;
- .2 duly completed and signed a *call declaration* in the form prescribed by the *BSB* from time to time; and
- .3 paid such fee or fees as may be prescribed.

rQ26 The *BSB* will issue a *Temporary Qualification Certificate* if the applicant submits to the *BSB*:

- .1 evidence which establishes that the applicant is a *Qualified European Lawyer* or falls within Rule rQ24.2;
- .2 a *certificate of good standing*; and
- .3 evidence which establishes that a *Professional Client* wishes to instruct the applicant to appear as counsel in the case or cases for the purposes of which the applicant seeks temporary *call* to the *Bar*.

rQ27 *Admission to an Inn* and *call* to the *Bar* under Rule rQ25 take effect when the applicant is given notice in writing by the *Inn* that the applicant has been admitted to the *Inn* and called to the *Bar* under Rule rQ26 and automatically cease to have effect on conclusion of the case or cases specified in the applicant's *Temporary Qualification Certificate*.

rQ28 Where an individual is dissatisfied with a decision by either the *BSB* or an *Inn* in relation to rQ3 to rQ5 and rQ7 to rQ26 above they may apply to the *BSB* for a review.

B3. Authorised Education and Training Organisations

rQ29 Providers of *vocational training* and *pupillage* must be authorised by the *BSB* as an *AETO*.

rQ30 An application to become an *AETO* must be made in such form and be accompanied by payment of such fee or fees as may be prescribed.

rQ31 In determining an application to be an *AETO* the *BSB* will have regard to the *Authorisation Framework* and in particular the mandatory and recommended criteria. The *BSB* will not approve an application by an *AETO* unless it is satisfied that the *AETO* is:

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

rQ32 The *BSB* may grant authorisation to an *AETO* on such terms and conditions as it considers appropriate including the period of authorisation.

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

- .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*.

rQ34 An *AETO* which is dissatisfied by a decision in relation to rQ31 – rQ33 above may apply to the *BSB* for a review.

B4. REVIEW AND APPEALS

rQ35 Where provision is made under this Part 4 for a review by the *BSB* of a decision, any request for such a review must be accompanied by:

- .1 a copy of any notice of the decision and the reasons for it received by the *person* or organisation requesting the review (“the applicant”);
- .2 where the decision is a decision of an *Inn*, copies of all documents submitted or received by the applicant which were before the *Inn*;
- .3 any further representations and evidence which the applicant wishes the *BSB* to take into account; and
- .4 payment of such fee or fees as may be prescribed.

rQ36 Where the decision under review is a decision of an *Inn*, the *BSB* will invite the *Inn* to comment on any further representations and evidence which the applicant submits under Rule rQ35.3.

rQ37 On a review under this Section the *BSB*:

- .1 may affirm the decision under review or substitute any other decision which could have been made on the original application;
- .2 may in an appropriate case reimburse the fee paid under Rule rQ35.4; and
- .3 will inform the applicant and any other interested *person* of its decision and the reasons for it.

rQ38 Where provision is made under this Part 4 for a review of a decision by the *BSB*, this review may be delegated to an *Independent Decision-Making Panel*, where specified by the *BSB*.

rQ39 Where under this Part 4 provision is made for a review by the *BSB* of a decision, no appeal may be made to the High Court unless such a review has taken place.

rQ40 An individual who is adversely affected by a decision of the *BSB* under Section B.2 may appeal to the High Court against the decision.

Definitions [to be inserted in Part 6]

“academic legal training” means:

(a) a UK degree, awarded at level 6 (or above) of the Framework for Higher Education Qualifications, by a recognised degree-awarding body and which contains the following subject content: Contract, Property Law, Tort, Criminal Law, Constitutional and Administrative Law, Equity and Trusts and the Law of the European Union; or

(b) a UK degree, awarded at level 6 (or above) of the Framework for Higher Education Qualifications, by a recognised degree-awarding body together with a degree programme or degree conversion programme (ie Graduate Diploma in Law or equivalent) which includes the following subject content: Contract, Property Law, Tort, Criminal Law, Constitutional and Administrative Law, Equity and Trusts and the Law of the European Union.

“*AETO*” is an Authorised Education and Training Organisation which is authorised by the *BSB* to provide a vocational training course and/or *pupillage* in accordance with the *Authorisation Framework*.

“*Authorisation Framework*” means the framework published by the *BSB* setting permitted pathways and their mandatory training components for the qualification of *barristers* in order to meet the Professional Statement and the criteria for authorisation of *AETOs*. It also includes the prescribed Curriculum and Assessment Strategy and additional publications as detailed in the framework.

“*Independent Decision-Making Body*” means the body established by the *BSB* to take decisions independently of the executive of the *BSB* as provided for in the *BSB Handbook*³.

³ This assumes the *BSB*'s proposals to establish such a body are approved. In the absence of this body, and pending its establishment, the current review panels would continue.

“*Independent Decision-Making Panel*” means a Panel consisting of members of the IDB established to take decisions as provided in the BSB Handbook⁴.

“qualifying sessions” means short professional development events of an educational or collegiate nature arranged by or on behalf of an *Inn*.

“*pupillage*” means a period of recognised work-based learning provided by an *AETO* in accordance with its authorisation by the *BSB*.

“vocational training” means a vocational component training course provided by an *AETO* in accordance with the *Authorisation Framework*

⁴ As above.