

BAR STANDARDS BOARD

REGULATING BARRISTERS

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1. Introduction

- 1.1 The Bar Standards Board (BSB) is responsible for setting the education and training requirements to become 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) of the BSB Handbook.
- 1.2 This policy relates to the BSB's powers under rQ33 of the BSB Handbook to vary, amend, suspend or withdraw authorisation of an Authorised Education and Training Organisation (AETO) offering vocational Bar training.

2. Scope

2.1 Under the [Scheme of Delegations](#), the following persons are authorised to take decisions under rQ33 (“the decision-maker”): the Acting Director of Regulatory Operations, the Director of Legal and Enforcement and the Director of Strategy and Policy. Any decision under rQ33 will normally be made by the Acting Director of Regulatory Operations.¹

2.2 This policy sets out how the BSB makes decisions under rQ33.

3. Framework for decision-making

3.1 rQ33 of the BSB Handbook states:

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*

3.2 Any decision made under rQ33 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.

3.3 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 an AETO. A breach of these requirements, or a concern that these requirements are not fully being met, could result in a formal intervention by the BSB.

¹ See Delegations 35 and 38 of the BSB’s Scheme of Delegations
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4. Escalating concerns about an AETO

- 4.1 Where a member of BSB staff has concerns that an AETO is not meeting the requirements of its authorisation, they should escalate these to their Head of team, who should raise them with the Supervision Team.
- 4.2 The Supervision Team will decide whether to discuss the concerns with the AETO. They can set out an improvement plan for the AETO to give them an opportunity to address the relevant issues within a set timeframe.
- 4.3 Where the Supervision Team is concerned that the AETO is not meeting its requirements of authorisation, it may refer the matter to the Authorisations Team. The Supervision Team will normally notify the AETO of the referral, explaining that a decision may be made under rQ33 and the options under this provision. The letter will inform the AETO of the reasons for the referral and an indicative timeframe for a decision.
- 4.4 During this time, the AETO remains authorised by the BSB in line with their previous conditions of authorisation until any decision otherwise is taken under rQ33.
- 4.5 There may be limited circumstances where the issues are serious and/or urgent. In these instances, an immediate decision under rQ33 may be required without first notifying the AETO.

5. Taking a decision under rQ33

- 5.1 When deciding whether to vary, amend, suspend or withdraw authorisation, the decision-maker will consider all the information before them, including any representations from the AETO. They may wish to request additional information, in which case any decision may be delayed for a limited period of time until this information is provided.
 - 5.2 The decision-maker 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 also consider the impact of any decision on students. The AETO may be requested to provide an equality impact assessment setting out, for example, the impact on students and what alternative arrangements are proposed for students to continue with their training.
 - 5.3 The decision-maker will make a written record of their decision and reasons. The AETO will be notified of the outcome and reasons for the decision. The AETO will
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also be notified of their right of review and provided with details of the process and timescales involved.

- 5.4 If the decision-maker does not take a decision under rQ33, they can still refer the matter(s) to another team within the BSB (eg to the BSB's Supervision Team for ongoing monitoring).
- 5.5 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 ongoing authorisation. "Amendment" refers to adapting an existing condition of authorisation, as set out in the Authorisation Letter.
- 6.2 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, or where a key individual has enforcement action or fitness to practise proceedings against them that may affect their ability to deliver training;
 - Material changes to the way a course is delivered or assessed
 - The AETO is not meeting one or more of the mandatory requirements set out in the Authorisation Framework in some other way;
 - Implementation of new process(es) by the AETO (eg any change to the assessment process(es) set out in the authorisation application documents)
 - The BSB is of the view that the AETO's activity should be limited (eg in terms of the number of students it accepts)
 - The AETO changes or extends the site from which it delivers the course without notifying the BSB
 - The AETO changes the pathways it offers and/or there is reason not to authorise all of them any longer
 - There is a merger or takeover of the AETO and so the BSB needs a new signatory to the agreement
 - The BSB wishes to add a new clause to the contract with the AETO on the basis of legal or other advice

7. Suspension

7.1 Suspension of authorisation is a time-limited period where an organisation can't operate as an AETO. Circumstances in which an AETO may be suspended under rQ33 include:

- Failing 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;
- Failing to meet all or part of the requirements in any agreed plan for improvement;
- Failing 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
- Failing to comply with the BSB Handbook

7.2 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

7.3 Where an AETO is suspended, the BSB will not refund their authorisation fee.

7.4 Before the conclusion of the term of the suspension, the matter will go back before the decision-maker. The decision-maker can then make one of the following decisions in relation to the suspension:

- i. the suspension can be lifted;
- ii. it can be extended where necessary; or
- iii. authorisation of the AETO can be varied, amended, or withdrawn

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.

8.2 The BSB will only take a decision to withdraw 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 vocational 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, they can re-apply for authorisation at any time (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 the BSB may take

9.1 The BSB may take other regulatory action in addition to a decision under rQ33. For example, taking a decision under rQ33 against an AETO where there has been harassment by a member of staff (who is also a practising barrister) 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 wanting a review of a decision should submit their request 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.

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