



REGULATING BARRISTERS

Bar Transfer Test

**Regulations and Guidance for Qualified Lawyers intending to transfer
to practise at the Bar of England and Wales.**

For use from 1 January 2013 (DRAFT FOR CONSULTATION)

**Education Standards Department
Bar Standards Board
289-293 High Holborn
London
WC1V 7HZ**

www.barstandardsboard.org.uk

Preface

The Bar Council is recognised by the Legal Services Board (LSB) as the official Approved Regulator for education and training for the Bar. This Handbook has therefore been produced by the Bar Standards Board (BSB) as the independent regulatory arm of the Bar Council since January 2006. It is the official reference document for the Bar Transfer Test (BTT) and must be adhered to from 1 January 2014 (following the retendering process). The current regulations and Handbook will apply at the time the test is taken, regardless of whether previous attempts have taken place.

The requirements and guidance set out in this booklet apply only to those who have been required to take the Bar Transfer Test as a condition for being granted exemption(s) from the standard training requirements of the BSB's Qualifications Committee. These are, in general, qualified lawyers from other jurisdictions and/or solicitors who wish to qualify to practise at the Bar of England and Wales. To ensure that all requirements are complied with, candidates are advised to read in addition to this document the latest edition of the Bar Training Regulations, which is obtainable from the Bar Standards Board. In particular candidates are referred to Part VII, Exemptions from Training Requirements (reproduced here as Appendix A).

A review of the Bar Transfer Test was conducted by a Working Group of the BSB Education and Training Committee January 2012 – May 2012 and the present Handbook, building on existing material, regulations and guidance, lays out the principles, processes and requirements for the content of the BTT, as well as regulations for the admission, assessment and certification of candidates.

Key sections of the Bar Training Regulations (BTRs) and the Code of Conduct (or BSB Handbook' once approved) are highlighted in each section as appropriate, with webpage references provided to full versions of those documents. Information on administrative and quality assurance procedures to be followed as required by the BSB and LSB is also included.

In conjunction with the Provider(s) of the BTT, the Education Standards Department of the BSB will revise and update this Handbook periodically in order to ensure currency, and also to provide additional guidance and clarification as necessary. Updated information will also be maintained on the website of the Bar Standards Board.

These regulations are effective from 1 January 2013 (TBC)

Comments and queries should be directed to:

Dr V Shrimplin
Education Standards Department
Bar Standards Board
289-293 High Holborn
London WC1V 7HZ
Tel: 0207 611 1444

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1 Introduction: The Regulatory Framework for the BTT

1.1 Aims and objectives of the BTT

The Bar is a demanding profession. Those Called to the Bar of England and Wales must demonstrate the qualities and standards of professionalism that justify the responsibility and trust that may be placed in them by members of the public, including a standard of English that is appropriate for the oral and written advocacy which is necessary for practice. They also play a vital role in the administration of justice. The purpose of the Bar Transfer Test (BTT) is to enable candidates who are qualified lawyers to have the opportunity to transfer to the Bar of England and Wales, without having to undergo the full course of education and training as required in the Academic Stage (Qualifying Law Degree or conversion course) and the Vocational Stage (Bar Professional Training Course 'BPTC').

The imposition of a Bar Transfer Test is necessary for the protection of the public in an outcomes based approach where the required standards and competences must have been assessed as having been met. It is also necessary in terms of the Regulatory objectives as defined in the Legal Services Act 2007 (Part 1, para 1(1)-(4)). A robust Bar Transfer Test helps to ensure that the objectives as laid down by the Act, are met as follows:

a Protecting and promoting the public interest

The need for qualified lawyers from other jurisdictions or professions to be assessed and examined formally before proceeding with transfer to the Bar of England and Wales is clearly in the public interest. Those candidates who are successful at the BTT may proceed to the Professional stage of training (ie pupillage).

b Supporting the constitutional principles of the Rule of Law

The requirement for such persons to demonstrate competence prior to transfer can only help to uphold the principles of the Rule of Law by ensuring the quality of transferring lawyers.

c Improving access to justice

Access to justice is improved by ensuring that transferring lawyers perform to the required standard.

d Protecting and promoting the interest of consumers

The use of the BTT ensures that clients and consumers can be assured of the ethical and practice standards of those practitioners who have transferred from elsewhere.

e Promoting competition in the provision of services

Permitting qualified lawyers to transfer to the Bar, subject to successful completion of the BTT helps to promote competition between the whole range of practitioners. This is expected to reduce costs and reward good standards.

f Encouraging an independent, strong, diverse and effective legal profession

Permitting qualified lawyers (particularly those from overseas jurisdictions) to transfer to the Bar after successful completion of the BTT, encourages and enhances diversity. This will provide equal opportunities to practise to all suitably qualified persons, including foreign lawyers, whose presence at the Bar reflects the increasingly globalised environment within which the courts of England and Wales operate.

g Increasing public understanding of the citizen's legal rights and duties

The requirement for transferring lawyers to undertake the BTT reinforces the reasonable public expectation that all barristers will have appropriate qualifications and experience.

h Promoting and maintaining adherence to the professional principles, including maintaining proper standards of work; and acting in the best interests of clients

Promoting excellence and quality within the profession is ensured by assessment of individuals during the BTT and their successful completion of the BTT.

1.2 Principles of Regulation of the BTT by the BSB

As the independent regulatory board of the Bar Council, the BSB is responsible for regulating barristers called to the Bar in England and Wales (<http://www.barstandardsboard.org.uk/>). The BSB takes decisions independently in order to promote and safeguard the highest standards of legal education and practice in the interests of clients, the public and the profession. The purpose of the BSB is thus to provide specialist regulation of advocacy and expert legal advice in the public interest. This is achieved by setting standards for the profession and by ensuring that professional practice and conduct are focused on the interests of justice, the needs of consumers and duty to the court – all within the context of the highest standards of ethical behaviour. It is the role of the BSB therefore to regulate training and practice in a way which balances the interests of the users and the providers of services, and also adheres to the Better Regulation Principles [as laid down by the Better Regulation Commission, 2006].

The aim of this Handbook is to provide transparent and consistent information about the BTT and the rules that govern it. The BTT is directed at specific categories of applicant (eg transferring qualified lawyers) and is proportionate in the way it operates. Applications are first assessed by the BSB Qualifications Committee which determines whether to grant exemptions from the standard requirements for qualification as a barrister and, if so, whether to make such exemptions conditional upon passing some or all section(s) of the BTT, proportionate to the existing qualifications and experience of the applicant. This may be in relation to some or all of the sections; candidates are rarely required to take all sections of the Test. The administration of the actual Test is outsourced to an accredited Provider of the Test. The Provider will also provide a compulsory training course in advocacy skills. Arrangements may be made for the provision of extra training in advocacy if necessary. The BSB remains accountable in terms of its function as regulator of education and training for the Bar.

The content and regulation of the BTT are also in line with the Legal Services Board Regulatory Framework. The Test takes an outcomes based approach to regulation, aimed at ensuring that transferring lawyers are at the right standard (equivalent to the vocational stage of training) in order to progress to the professional stage. This needs to apply right across an increasingly diverse market, keeping as its focus the needs of consumers and possible risks to them in using the services of qualified lawyers from other jurisdictions or professions who aim to transfer to the Bar of England and Wales, and the interests of justice. Upon passing the BTT, transferring lawyers are then regulated in the same way as other fully qualified practising barristers, with all further requirements enforced in the same way.

1.3 The Role of BSB as Regulator of Education & Training

The Bar Training Regulations (BTRs) were drawn up by the BSB, approved by the Secretary of State, and put in place from 1 September 2009. They set out the training which a person must complete, and other requirements which a person must satisfy, in order to be called to the Bar by an Inn and be qualified to practise as a barrister. They are available on the BSB website. The responsibilities of the BSB extend to the regulation of the BTT for transferring solicitors and overseas lawyers, as specified in Part VII, Exemptions from Training Requirements. Key regulations are as follows:

BTR 61

61. An exemption from part or all of any Stage of training may be granted unconditionally or subject to conditions, which may include in an appropriate case:

- (a) a requirement to undertake training in substitution for training prescribed by these Regulations; and/or
- (b) a condition that the applicant must pass a Bar Transfer Test.

In addition, with regard to European Lawyers:

BTR 61

69. Subject to Regulations 71 to 75, the Board may require a Qualified European Lawyer to pass a Bar Transfer Test if the Board determines that:

- (a) the matters covered by the education and training of the applicant differ substantially from those covered by the Academic, Vocational and Professional Stages of training; and
- (b) the knowledge acquired by the applicant in the course of the applicant's professional experience does not fully cover this substantial difference.

The responsibilities of the BSB in education and training are focussed on the qualification to practise at the Bar of England and Wales. Appropriate knowledge and skills are essential for all transferring lawyers, including fluency in the English language. Candidates are expected to be able to use the English language at a standard (and with an understandable accent and audibility) that is appropriate to communicate in court in England and Wales, so that judges, witnesses, juries and members of the public will be able to comprehend without difficulty. This standard of English is appropriate for oral and written advocacy and is essential for all transferring lawyers. Candidates must be able to summarise information from different spoken and written sources, reconstructing arguments and accounts in a coherent presentation. They must be able to express themselves spontaneously, fluently and precisely, differentiating finer shades of meaning even in the most complex situation.

The BTT is not intended as a qualification for practice other than at the Bar of England and Wales. The Test is designed to ensure that candidates are able to demonstrate that the Foundations of Legal Knowledge, as specified by the Joint Statement issued by the Joint Academic Stage Board in 1999,¹ have been covered, namely the key elements and general principles of the following areas of legal study:

- Public Law, including Constitutional Law, Administrative Law and Human Rights;
- Law of the European Union;
- Criminal Law;
- Obligations including Contract, Restitution and Tort;
- Property Law; and
- Equity and the Law of Trusts
- Training in Legal Research (will be assumed for qualified lawyers)
- A knowledge of the English Legal System is also required

¹ For the Joint Statement see <http://www.barstandardsboard.org.uk/qualifying-as-a-barrister/academic-stage/joint-academic-stage-board/jasb-documents/>

In addition, since the BTT is regarded (overall) as equivalent in level to the Bar Professional Training Course (BPTC), candidates must demonstrate the same level of knowledge and skills (see section 2.1 below) and in the same areas:

- Advocacy
- Civil Litigation, Evidence and Remedies
- Criminal Litigation, Evidence and Sentencing
- Ethics
- Opinion Writing
- Drafting
- Conference skills (will be assumed for qualified lawyers)
- Negotiation/Resolution of Disputes out of Court) (assumed for qualified lawyers)

NB *Knowledge and experience of the above, where not assumed, may be demonstrated other than by formal assessment within the BTT if agreed by the Qualifications Committee.*

Part VII of the BTRs is reproduced in full in Appendix A.

2 Framework and content of the BTT

2.1 Standards and Level Descriptors

The Bar Transfer Test consists of a maximum of 13 separate assessments, the majority of which are time constrained formal written examinations, the remainder being oral assessments. The examination papers relate to the knowledge of the Foundation subjects as specified by the Joint Statement and covered in the Qualifying Law Degree (QLD) or the Common Professional Examination (CPE) or Graduate Diploma in Law (GDL) and to the knowledge, skills and competencies that are assessed on the BPTC. Together these form the essential components for Call to the Bar of England and Wales. In some circumstances, it may not be necessary for individual candidates to take all papers and oral assessments but candidates are required to demonstrate their ability in all sections that are required. Admission Regulations are detailed in section B3 below. All candidates required to be assessed in Advocacy must also attend an approved training course, delivered by an approved provider, before attempting the assessment.

The elements of the BTT framework and requirements are as follows:

Part A (relating to the CPE/GDL)

- a. Public Law (Constitutional Law, Administrative Law and Human Rights)
- b. Law of the European Union
- c. Criminal Law
- d. Obligations including Contract, Restitution and Tort
- e. Property Law
- f. Equity and the Law of Trusts
- g. English Legal system

Part B (relating to the BPTC)

- h. Advocacy
- i. Civil Litigation, Evidence and Remedies
- j. Criminal Litigation, Evidence and Sentencing
- k. Ethics
- l. Opinion Writing
- m. Drafting

The syllabuses for each subject area in Parts A and B are detailed respectively in section A2.2 and A2.3 below. In some circumstances it may be preferable or necessary for a candidate to take the CPE/GDL rather than a large diet of assessments from Part A. It should be noted that:

- Latest editions of recommended texts should always be used. Candidates should ensure that later editions have not superseded those indicated. They will be expected to be familiar with the law in force at the time of their sitting the Test.
- City Law School Bar Course Manuals. These are manuals prepared for use on the Bar Professional Training Course at City Law School and published by Oxford University Press. The Civil Litigation Handbook (current edition) can also be used.

For details of the outcomes expected in the above subject areas, candidates should refer to the descriptors for the Bar Transfer Test, which are in line with those used for the Bar Professional Training Course (see *Bar Professional Training Course Requirements and Guidance*, known as 'The Blue Book'). These will be used by examiners to assess whether the required standards have been met. Internal Examiners must be satisfied that a candidate has fulfilled all descriptors within these areas in order to be deemed to be performing at the required level; External

Examiners must also, by moderation and sampling, be satisfied that assessment is at the required level.

Candidates are therefore advised to familiarise themselves with the descriptors and ensure that they will be able to meet the required standard.

Students successfully completing the BPTC must have demonstrated:	
a	a high level ability to (i) persuade orally and in written argument using cogent legal and factual analysis (ii) develop reasoned argument and (iii) deploy forensic skills with evidence (both written and oral)
b	systematic understanding of relevant knowledge and ethical principles in law and practice; together with a comprehensive understanding of techniques applicable to practice at the Bar of England and Wales,
c	expertise in the application of legal knowledge in the interests of the client, together with a practical understanding of how established technical skills are used in relation to the interpretation of knowledge in the discipline
d	conceptual understanding that enables the student to collect and analyse relevant information; evaluate current developments and advanced theory in law and practice, and acquire in-depth knowledge of written material, law reports, journals and articles in applicable areas of study
e	knowledge and understanding of the ethical values (including equality and diversity issues, and duty to the client and to the court), and the skills and underpinning knowledge necessary to assess and manage cases without supervision
f	the ability to utilise and develop their knowledge and understanding of the principles underpinning their professional practice
g	the ability and competence to undertake case analysis, research, conferences, opinion writing, drafting, negotiation and advocacy with/without supervision

Definitions for threshold pass standard on the BTT ('competent' or 'not competent' in each assessment) are defined below. These should be used in conjunction with the level descriptors above, in line with the specification for the BPTC (Blue Book A2.1.5)

Grading	Descriptor
Competent	Work is satisfactory and accurate with few errors or omissions, and is of a standard that demonstrates an ability to perform the sort of tasks appropriate to pupillage. Has attained the specified outcomes (in terms of knowledge of fundamental concepts and performance of skills). Demonstrates sufficient quality to be considered satisfactory and competent in terms of fitness to progress to the pupillage stage of training. Able, with the additional training and supervision in pupillage, to represent lay clients/members of the public.
Not Competent	Does not satisfy the threshold requirements. Work is inarticulate and of poor standard, faulty and badly expressed.

2.2 Assessment framework

Subject	Section	Minimum assessment requirements	Pass mark
Part A			
Legal Foundation Subjects			
Public Law (Constitutional Law, Admin Law, Human Rights)	A2.3a	<ul style="list-style-type: none"> one closed book examination (2 hours) 	40% for substantive law; 60% for written skills
Law of the EU	A2.3b	<ul style="list-style-type: none"> one closed book examination (2 hours) 	40% for substantive law; 60% for written skills
Criminal Law	A2.3c	<ul style="list-style-type: none"> one closed book examination (2 hours) 	40% for substantive law; 60% for written skills
Obligations (Contract, Restitution Tort)	A2.3d	<ul style="list-style-type: none"> one closed book examination (2 hours) 	40% for substantive law; 60% for written skills
Property/Land Law	A2.3e	<ul style="list-style-type: none"> one closed book examination (2 hours) 	40% for substantive law; 60% for written skills
Equity and the Law of Trusts	A2.3f	<ul style="list-style-type: none"> one closed book examination (2 hours) 	40% for substantive law; 60% for written skills
English Legal System	A2.3g	<ul style="list-style-type: none"> one closed book examination (2 hours) 	40% for substantive law; 60% for written skills
Part B			
Advocacy	A2.4h	<ul style="list-style-type: none"> one assessment with oral (12 mins) plus written component (eg skeleton argument) two further oral assessment (examination-in-chief or cross examination) (12 mins). Both assessments must be passed (weighted equally). 	60%
Civil Litigation, Evidence & Remedies	A2.4i	<ul style="list-style-type: none"> one closed book examination of 3 hours, comprising Part A multiple choice questions, set centrally, marked centrally and electronically plus Part B short answer questions, set centrally and marked locally. Both parts must be passed (weighted equally). 	60%
Criminal Litigation, Evidence & Sentencing	A2.4j	<ul style="list-style-type: none"> one closed book examination of 3 hours, comprising Part A multiple choice questions, set centrally, marked centrally and electronically plus Part B short answer questions, set centrally and marked locally. Both parts must be passed (weighted equally). 	60%
Professional Ethics	A2.4k	<ul style="list-style-type: none"> one closed book examination of 2 hours comprising Part A MCQs, set centrally, marked centrally and electronically, plus Part B SAQs, set centrally and marked locally. Both parts must be passed (weighted equally). 	60%
Opinion Writing	A2.4l	<ul style="list-style-type: none"> no separate assessment; assessed within other written examinations 	n/a
Drafting	A2.4m	<ul style="list-style-type: none"> no separate assessment; assessed within other written examinations 	n/a
Maximum		13 assessments	

NB In relation to each assessment/examination, a candidate will fail if their answers (however accurate) do not meet the English language standards (see p. 7, B2.3 and C2).

2.3 Subject areas relating to the QLD/CPE Foundation subjects

2.3a Public Law (Constitutional Law, Administrative Law and Human Rights)

Syllabus

- 1 Nature and sources of Constitutional Law
 - Doctrines of Constitutional Law
 - Institutions of Constitutional Law in the UK and EU
 - Government Powers and Accountability
- 2 EU Law
 - Relations with the national legal order
 - UK sovereignty and impact of EU Law
 - EU remedies
- 3 Civil Liberties
 - The Police
 - The Judiciary
 - Human rights - the European Convention on Human Rights and Fundamental Freedoms
- 4 Administrative Law
 - Judicial review
 - Jurisdiction - ultra vires
 - Principles - natural justice
 - Procedures and remedies
 - Administrative tribunals

Assessment

One two hour closed book examination.

The paper will require candidates to answer four questions out of seven.

The pass mark on the substantive law element of the paper is 40%. The pass mark for the written skills element of the paper is 60%.

Candidates must demonstrate their ability in formal written skills required of counsel. Accordingly candidates will be required to present their answers in the form of either a pleading or a formal opinion. Relevant copies of statutory materials will be provided.

2.3b Law of the European Union

Syllabus

Basics of EU Law

- Recognition of the circumstances in which issues of EU Law may arise
- The relationship between EU and Domestic Law in a practical context
- The main content of and problems existing in some of the major areas of substantive EU Law and the impact of each on English Law, including:
- Free movement of goods
- Free movement of People
- Competition Law

Assessment

One two hour closed book examination.

The paper will require candidates to answer four questions out of seven..

The pass mark on the substantive law element of the paper is 40%. The pass mark for the written skills element of the paper is 60%.

Candidates must demonstrate their ability in formal written skills required of counsel. Accordingly candidates will be required to present their answers in the form of either a pleading or a formal opinion. Relevant copies of statutory materials will be provided.

2.3c Criminal Law

Syllabus

- 1 General
 - The general principles of criminal liability (actus reus, mens rea and defences)
 - Application of general principles to specific offences
 - Understanding of the elements of specific offences
 - The role of case law, the rules of precedent, statutes and rules of statutory interpretation in the operation of criminal law.
- 2 The basic elements of criminal liability
 - *Actus Reus*
 - Causation
 - Omissions
 - *Mens Rea* (intention, recklessness etc)
 - Defences (including self defence, effect of mistake)
 - Recklessness
- 3 Non-fatal offences against the person
 - Assault and battery
 - Assault occasioning actual bodily harm
 - Causing or inflicting grievous bodily harm
 - Robbery
- 4 Fatal offences against the person
 - Murder
 - Manslaughter
- 5 Modes of Participation
 - Accessorial liability
 - Inchoate offences
- 6 Offences involving fraud and dishonesty
 - Theft
 - Offences of fraud
 - Evasion of liability by deception
 - Making off without payment
 - Handling stolen goods
 - Burglary
- 7 Road Traffic Offences
 - Taking a vehicle without the owner's consent
 - Aggravated vehicle taking
- 8 Other Offences
 - Public order offences
 - Criminal damage

Assessment

One two hour closed book examination. The paper will require candidates to answer four questions out of seven.. The question will be in the form of Instructions to Counsel. The question/instructions will require candidates to produce a pleading or a formal Opinion. The pass mark on the substantive law element of the paper is 40%. The pass mark for the written skills element of the paper is 60%.

Candidates must demonstrate their ability in formal written skills required of counsel. Accordingly candidates will be required to present their answers in the form of either a pleading or a formal opinion.

2.3d Obligations including Contract, Restitution and Tort

Syllabus (Contract)

- 1 Formation of Contracts
 - Offer/Acceptance
 - Intention to create legal relations
 - Consideration
 - Privity of contract
 - Capacity/Formalities
- 2 Terms of the Contract
 - Express terms, implied terms, particularly implied from statute (Sale of Goods Act, Supply of Goods & Services)
 - Conditions and warranties
 - Exemption clauses
- 3 Vitiating factors
 - Misrepresentation
 - Mistake
 - Duress/undue influence
 - Illegality/restraint of trade
- 4 Discharge of Contract
 - Discharge by performance
 - Discharge by frustration
 - Discharge by breach
 - Remedies
 - Damages
 - Specific performance
 - Injunction
 - Restitution

Syllabus (Tort)

- 1 Negligence
 - Duty of care
 - Negligent statements
 - Professional negligence
 - Nervous shock and rescuers
 - Breach of Duty
 - Damage
 - Remoteness
 - Causation
- 2 Employers' liability (including vicarious liability)
- 3 Trespass torts; Nuisance
- 4 Breach of statutory duty
- 5 Occupiers' liability

- 6 Common issues in Tort and Contract
- Professional liability
 - Product liability
 - Multi-party transactions
 - Economic loss
 - Misrepresentation
 - Unfair Contract Terms Act
 - Remedies
 - Contribution and indemnity
 - Defences

Assessment

One two hour closed book examination. The paper will require candidates to answer four questions out of seven. The question will be in the form of Instructions to Counsel. The question/instructions will require candidates to produce a pleading or a formal Opinion. The pass mark on the substantive law element of the paper is 40%. The pass mark for the written skills element of the paper is 60%.

Candidates must demonstrate their ability in formal written skills required of counsel. Accordingly candidates will be required to present their answers in the form of either a pleading or a formal opinion.

2.3e Property/Land Law

Syllabus

- 1 General
 - Estates and interests which can be held in land and how these can exist
 - Ways in which legal estates can be held
 - The respective roles of trustees and beneficiaries
 - The formalities governing the acquisition of interests in land
 - Matters which may defeat an estate or interest
 - Licences and leases in both commercial and residential contexts
 - The regulation of land use through private law mechanisms (covenants and easements)
 - How estates and interests in land are governed by the unregistered and registered systems of conveyancing

- 2 Additional
 - Transfer of land
 - Strict settlements, the trust for sale and the trust of land
 - Co-ownership
 - Mortgages
 - Licences
 - Leases
 - Freehold covenants
 - Easements
 - Registered land
 - Unregistered land

Assessment

One two hour closed book examination.

The paper will require candidates to answer four questions out of seven.

The pass mark on the substantive law element of the paper is 40%. The pass mark for the written skills element of the paper is 60%.

Candidates must demonstrate their ability in formal written skills required of counsel. Accordingly candidates will be required to present their answers in the form of either a pleading or a formal opinion. Relevant copies of statutory materials will be provided.

2.3f Equity and the Law of Trusts

Syllabus

Basic principles and rules of equity

- Creation of Private Trusts
- Certainty, formalities for creation and exceptions
- Rules against remoteness of vesting
- Secret trusts
- Charitable trusts
- Requirements for charitable status
- Cy-pres doctrine
- Purpose trusts and unincorporated associations
- Resulting and constructive trusts
- Implied trusts of the home
- Administration of private trusts
- Appointment and removal of trustees
- Variation of trusts
- Trustees' powers and duties
- Breach of trust and defences o Liability of strangers, tracing

Assessment

One two hour paper. The paper will require candidates to answer four questions out of seven. The question will be in the form of Instructions to Counsel. The question/instructions will require candidates to produce a pleading or a formal Opinion. The pass mark on the substantive law element of the paper is 40%. The pass mark for the written skills element of the paper is 60%.

Candidates must demonstrate their ability in formal written skills required of counsel. Accordingly candidates will be required to present their answers in the form of either a pleading or a formal opinion.

2.3g English Legal System

Syllabus

1. Sources of English Law: Common Law, Equity and Legislation. A detailed knowledge of the history of Common Law and Equity is not required.
2. The Doctrine of Precedent: The operation of the doctrine of *stare decisis* and the hierarchy of Courts. The relationship between precedent and law reporting. Advantages and disadvantages of precedent. Do judges make law?
3. The Interpretation of Legislation: United Kingdom legislation including delegated legislation, its advantages and disadvantages. Judicial approaches to the interpretation of statutes. Rules, presumptions and aids to construction. The Interpretation Act 1978. Interpretation of European Legislation.
4. The Court Structure: The composition and jurisdiction of the House of Lords, the Supreme Court, the Court of Appeal, the High Court of Justice, the Crown Court, County Courts (including the small claims procedure), Coroners Courts and Magistrates Courts. A detailed knowledge of rights of appeal is not required for this part of this syllabus, but may fall within the scope of other papers.
5. Tribunals: An outline knowledge only of the role and workings of tribunals. A knowledge of the advantages, disadvantages and control of tribunals is required.
6. Judge and Jury: The appointment and conditions of tenure of the judges of the courts listed in 4 above. Qualifications for jury service. The use of juries in civil and criminal cases and the advantages and disadvantages of their use. The roles of judge and jury.
7. The Structure and Organisation of the Legal Profession: Barristers, solicitors and legal executives. The professional institutions responsible for the qualifications, conduct and discipline of members of the legal profession
8. Lay participation in the legal system and alternative methods of Dispute Resolution. Lay magistrate, tribunal members, McKenzie friends, lay assessors. Conciliation, mediation, arbitration: Their advantages and disadvantages

Assessment

One two hour closed book examination.

The paper will require candidates to answer five questions out of eight.

The pass mark on the substantive law element of the paper is 40%. The pass mark for the written skills element of the paper is 60%.

Candidates must demonstrate their ability in formal written skills required of counsel. Relevant copies of statutory materials will be provided.

2.4 Subject areas relating to the Bar Professional Training Course

NB the Law cut off point will be 1 October each year

2.4h Advocacy

This section aims to test candidates on the practice of advocacy which they should be capable of conducting as a barrister. It aims to test the skills necessary to prepare, present and respond to a case or legal argument before a court or other tribunal.

This section will test whether candidates:

- can prepare, manage, present and/or respond to a case or legal argument, both orally and in writing, before a court or other tribunal, whether formal or informal;
- have the essential skills for a persuasive modern advocate, as defined by the Dutton² criteria:
 - the ability to persuade orally
 - the ability to persuade in written argument
 - cogent legal and factual analysis
 - the ability to develop reasoned argument, and
 - forensic skills with evidence (both written and oral)
- all of the foregoing undertaken to high ethical standards;
- can apply advocacy training methods to which they will be exposed in practice
- can apply the advocacy practice as approved by the Advocacy Training Council
- have knowledge and understanding of the manner in which legal submissions should be made and responded to
- have knowledge and understanding of relevant equality and diversity issues in advocacy

The candidate must be able to:

1. prepare a case effectively, understanding the relevant law, facts and principles, observing the rules of professional conduct and planning the advocacy task in question
2. demonstrate basic advocacy skills in a range of civil and criminal scenarios, in applications and in trial(s), and before a range of tribunals
3. prepare and deliver each of the following:
 - a. an opening speech;
 - b. a closing speech;
 - c. an unopposed submission; and
 - d. an opposed submission.
4. examine, cross-examine and re-examine witnesses.

Syllabus: Candidates must be able to demonstrate that they have reached the required standard in the areas specified below.

1 Preparation

- comprehensive analysis of the case;
- outline of facts in a clear narrative form;
- statement of relevant legal principles to the court as concisely as possible;
- citation of cases and statutes as appropriate, giving full citations to the court when necessary;
- applying legal authorities to issues in the case;
- relating evidence to the issues;
- making appropriate use of witness statements or affidavits;

² Report of Bar Council Working Party, chaired by Timothy Dutton QC, published October 2002.

- structuring the speech or submission in a clear, logical, coherent, effective and proper manner;
- adherence to instructions from the client and ethical principles.

2 Presentation

- speaking clearly, audibly and at a sensible pace;
- adopting an appropriate stance for addressing the court, with good communication techniques (eg eye contact) and a general absence of distracting gestures;
- displaying a proper degree of confidence in the case and in its presentation;
- advancing the positive points in the client's case;
- explaining, excusing or justifying, to the extent that it is proper to do so, the weak points in the client's case;
- anticipating an opponent's points, where possible, and putting forward cogent arguments to rebut them;
- answering an opponent's points clearly and effectively;
- responding appropriately to points raised by the court, or by an opponent;
- relying in argument only on points with some merit and which can be properly relied on;
- conceding points in argument, if appropriate.

3 Examination-in-Chief

- understanding of the aims of examination-in-chief;
- settling the witness, with simple introductory questions;
- enabling the witness to tell the story in his or her own words;
- avoidance of the use of leading questions except on matters which are not in dispute;
- asking questions designed to elicit the important parts of the testimony of a witness;
- making appropriate use of open and closed questions;
- asking the questions audibly, at a suitable pace and in a sensible sequence;
- making smooth transitions from one topic or series of questions to another.

4 Cross Examination

- preparing for cross-examination with a clear approach to the objective which is sought;
- identifying the matters on which it is, and is not, appropriate to cross-examine;
- organizing matters to be dealt with in a sensible order;
- understanding the need to be flexible by adapting the plan prepared for cross-examination to take account of the evidence given by the witness;
- asking questions which strengthen elements of the client's case;
- asking questions, which probe the evidence of a witness for ambiguities, or matters that reveal a lack of credibility;
- putting the client's case to the opponent's witness in cross-examination for explanation, agreement or contradiction;
- making sensible use of leading questions;
- asking the witness questions audibly, at a suitable pace and in a form that the witness comprehends.

5 Re-examination

- deciding when it is and is not appropriate to re-examine;
- confining re-examination to matters raised in cross-examination;
- avoiding leading questions;
- asking the witness questions audibly, at a suitable pace and in a form that the witness comprehends.

6 Skeleton Arguments

- Skeleton arguments must be covered. The importance of skeleton arguments cannot be over-emphasised.

[NB Forms of written advocacy should be covered as appropriate]

Assessment:

Each candidate must undertake an Advocacy Course (see section A3.1) involving advocacy exercises under the supervision of a tutor; of which three will be formally assessed. Methods of training as used by the Advocacy Training Council (ie the Hampel Method) will be used but this may be modified if appropriate.

The diet of summative advocacy assessments must contain the following elements:

- submission of written argument;
- advancing and responding to legal, factual and procedural submissions; knowledge and application of legal principle;
- witness handling, including examination in chief, cross examination and re-examination;
- dealing with interventions from the bench

Three exercises will be formally assessed as follows: One formal assessment must have an oral plus skeleton argument. There must be two further oral assessments (of examination-in-chief; cross examination). All three summative assessments must receive the specified weighting (see table, section 2.2).

Note: *Case studies in either Civil or Criminal Law may be used for practice on the taught advocacy course that supports this part of the Test, but candidates may choose to be assessed in either Civil or Criminal.*

2.4i Civil Litigation, Evidence and Remedies

This section aims to test knowledge, understanding and the ability to apply and evaluate the key areas of civil litigation and evidence. It covers practice procedure and evidence in civil claims from compliance with pre-action protocols through to appeals, with particular emphasis on the common types of work done at the junior Civil Bar.

This section will test whether candidates have a sound knowledge and understanding of:

- the organisation of the High and County Courts, the overriding objective of the Civil Procedure Rules, the impact of the Human Rights Act on civil claims and various types of claims (small claim, fast track and multi-track), pre-action protocols and limitation
- the rules for commencing proceedings and the rules and procedures relating to multiple causes of action, multiple parties and additional claims
- statements of case and the rules for amendment and requesting further information
- the rules and procedure relevant to track allocation, case management and directions
- the principles and procedure for obtaining judgment without trial
- the procedure for making interim applications and in particular applying for an interim injunction, freezing injunction and search order, interim payment and security for costs
- the law, principles and procedure regulating the disclosure and inspection of documents
- striking out, stays and discontinuance and offers to settle
- the law and practice relating to the admission of types of evidence in civil trials, and preparation for trial
- costs, funding and the implications of Community Legal Service funding
- the procedure for appealing and for claiming judicial review and for making references to the ECJ
- the rules and principles relating to judgments and orders
- skills in applying the different methods of enforcing money and other judgments

The candidate must be able to:

1. demonstrate a sound understanding of the organisation of the High Court and the County Courts;
2. demonstrate a sound understanding of the procedures that must be observed in the High Court and County Court;
3. demonstrate a sound understanding of the how claims are commenced and of limitation and case management;
4. demonstrate a sound understanding of the manner in which parties are required to set out and verify the factual basis of their respective cases in statements of case;
5. understand the procedure in cases involving three or more parties including a sound knowledge of the rules and procedures relating to multiple causes of action and multiple parties and additional claims;
6. understand the procedures relating to disclosure and inspection of documents;
7. demonstrate a sound understanding of requests for further information, how to respond to a request for further information and the rules on amendment of statements of case;
8. have a sound understanding of the law and procedure relating to applications for interim injunctions both prohibitory and mandatory;
9. demonstrate a sound understanding of freezing and search orders, sanctions, striking out, stays and discontinuance, interim payments and security for costs;
10. be able effectively to consider interim applications;
11. be able to demonstrate a sound understanding of default, summary and other judgments;
12. demonstrate a sound understanding of the principles and procedures in respect of Part 36 offers to settle;

13. demonstrate a sound understanding of the law and practice relating to the admission of evidence in civil trials;
14. have a sound understanding of preparations necessary for trial;
15. understand and distinguish between different bases of assessment of costs, funding and the impact of Community Legal Service funding;
16. demonstrate a sound understanding of practice relating to drawing up judgments and orders
17. gain a sound working knowledge of the different methods of enforcing money and other judgments
18. have a sound understanding of the principles and procedures governing civil appeals and to be able to understand and advise on the procedure for claiming judicial review and for making references to the ECJ.

Syllabus: Candidates must have reached the required standard in the syllabus areas specified below:

Required Content for the Centrally Set Assessment in Civil Litigation and Evidence:

1 Organisational matters

- the organisation of the High Court (in outline);
- the organisation of the County Courts (in outline);
- the allocation of business between the High and County Courts (in outline);
- the allocation of business between tracks;
- the overriding objective of the Civil Procedure Rules; and
- the impact of the Human Rights Act on civil claims.

2 Pre-action Protocols

- the list of specific pre-action protocols;
- the principles relating to pre-action conduct under the Personal Injury pre-action protocol (in outline);
- the details of pre-action conduct where no specific protocol applies; and
- the consequences of non-compliance with pre-action protocols.

3 Limitation

- rules on calculating limitation (accrual and when time stops running);
- limitation periods in tort, latent damage cases, personal injuries, fatal accidents, contract, recovery of land, judicial review and contribution claims. Also the provisions of the Limitation Act 1980, ss 14, 14A, 14B and 33; and
- Limitation Act 1980 provisions dealing with persons under a disability, fraud, concealment and mistake.

4 Commencing Proceedings

- when the Part 7 procedure is appropriate and how Part 7 claims are commenced;
- when the Part 8 procedure is appropriate and how Part 8 claims are commenced;
- how court documents are brought to the notice of other parties;
- the principles governing the validity and renewal of claim forms;
- the procedures for bringing and settling proceedings by or against: children and persons suffering from mental incapacity; and
- the procedures for bringing proceedings by or against: sole traders, partnerships, LLPs and registered companies; charities and trusts; deceased persons and bankrupts.

5 Proceedings Involving Three or More Parties and Multiple Causes of Action

- multiple causes of action and multiple parties;

- additional claims, including in particular:
- the various types of claims that can be raised in such proceedings,
- the management of additional claims; and
- the effect on additional claims of the main proceedings being determined without trial.

6 Statements of Case

- the manner in which parties are required to set out and verify the factual basis of their respective cases in statements of case; and
- the methods by which parties may respond to statements of case, defences, replies, counter-claims.
- [Not the Drafting of statements of case, for which see section 2.2.6]

7 Remedies (general)

- the cost of pursuing a remedy;
- whether a self-help remedy is available;
- whether alternative forms of resolving a dispute are available;
- the capacity of the defendant to pay damages if awarded;
- whether a range of remedies should be pursued;
- whether interim remedies should be pursued; and
- applicable time limits.

8 Contract

- the general principles underlying damages for breach of contract, including limitations on compensatory damages;
- the availability of equitable remedies, including specific performance, injunctions, rescission and rectification;
- remedies for misrepresentation;
- the law and practice in respect of interest on judgment debts pursuant to contract or statute (Judgments Act 1838; County Court (Interest on Judgment Debts) Order 1991; Late Payment of Commercial Debts (Interest) Act 1998).

9 Tort

- the general principles underlying the amount of damages, the calculation of quantum, the reduction of damages, aggravated and exemplary damages and the availability of injunctions;
- the principles according to which damages are quantified, the process by which a court would arrive at a final figure, and the practical steps to be taken in advising on quantum in cases of personal injury;
- the impact of Social Security payments on the assessment of damages and the method by which HM Revenue and Customs approach issues of taxation of damages;
- the law and practice in respect of interest on damages in claims for personal injury.

10 Amendment

- permission / consent to amend: when required, and how permission is sought;
- principles governing applications for permission to amend;
- principles governing amendments introducing new causes of action after the expiry of limitation;
- principles governing amendments adding or substituting parties after the expiry of limitation;
- amendments affecting accrued limitation rights; and
- costs consequences of amending.

11 Further Information

- when it may be appropriate to make a request for further information;

- the principles on which requests for further information may be administered or are allowed; and
- how to respond to a request for further information.

12 Interim applications

- with notice and without notice applications;
- documentation required in interim applications;
- calculating periods of notice in interim applications; and
- duty of full and frank disclosure in without notice applications.

13 Judgment without trial

- default judgments, including calculating time for entry of default judgment, procedure, whether permission is required, and the principles applied on applications to set aside; and
- summary judgments, including the procedure, who may apply, the test to be applied, conditional orders, the principles applied on applications for summary judgment, how the test applies where there are counterclaims and set-offs and the cheque rule.

14 Case Management

- the allocation of business between the small claims track, the fast track and the multi-track;
- the procedure at case management conferences; and
- typical directions in fast track and multi-track claims.

15 Disclosure and Inspection of Documents

- the law, principles and procedure regulating standard disclosure and inspection of documents;
- the principles and procedure relating to specific disclosure;
- collateral use of disclosed documents;
- *Norwich Pharmacal* orders; and
- pre-action discovery under SCA 1981 s.33 (2) and disclosure against non-parties under SCA 1981 s.34 (2).

16 Sanctions, Striking Out, Stays and Discontinuance

- identification of whether, in any given case, an application should be made for sanctions or to strike out;
- the procedure for applying for sanctions, to strike out and for relief from sanctions, and the principles applied by the court; and
- applications for stays pending consent to medical examination and the effect of stays; and
- discontinuing and the costs consequences of discontinuing.

17 Interim Payments and Security for Costs

- the principles and procedure relating to applications for interim payments;
- grounds for applying for interim payments, to include cases with more than one defendant and effect of set-offs and counterclaims;
- amount to be ordered by way of interim payment, including the effect of set-offs and counterclaims;
- procedure on applications for security for costs;
- applying for security for costs on the grounds of residence outside the jurisdiction and against impecunious companies; and
- the approach to the discretion to order security for costs in these cases.

18 Interim injunctions

- the procedure for applying for an interim injunction;
- *American Cyanamid* principles;

- the principles governing the following exceptions and variations to *American Cyanamid*: applications for mandatory interim injunctions, interim injunctions that finally dispose of the case, cases where there is no arguable defence, restraint of trade cases, defamation claims and cases involving freedom of expression and privacy;
- how those principles apply in the particular circumstances; and
- the meaning and effect of the usual undertakings and cross-undertakings given in interim injunction cases.

19 Freezing Injunctions and Search Orders

- The following topics relating to freezing injunctions:
 - the principles for granting such an injunction,
 - procedure for applying for such an injunction,
 - the terms to be incorporated in drafting such an injunction, and
 - the grounds upon which an application may be made to vary or discharge such an injunction;
- The following topics relating to search orders:
 - the principles for granting such an order
 - the procedure for applying for such an order, and
 - how such orders are executed.

20 Offers to settle

- the requirements in making offers to settle under Part 36;
- calculation of the relevant period;
- consequences of accepting offers to settle under Part 36;
- withdrawing, reducing and increasing offers to settle;
- consequences of failing to obtain judgment which is more advantageous than an offer to settle;
- secrecy relating to offers to settle, and the consequences of breach.

21 Trial

- the use of witness summonses;
- skeleton arguments;
- the procedure on the trial of civil cases, including trial timetables, the order of speeches, calling and examining witnesses; and
- judgment and submissions on orders for costs and permission to appeal.

22 Costs, Funding and Community Legal Service

- the nature of private funding, conditional fee agreements, after the event insurance, before the event insurance, and public funding;
- the contrast between conditional fee agreements and contingency fee agreements;
- the difference between funding and costs orders;
- the different methods of assessing costs (summary and detailed assessment) and when each is appropriate;
- the different bases on which costs are assessed (standard and indemnity);
- the various interim costs orders and their effects;
- the situations where costs orders do not follow the event;
- the likely effect on the order for costs where:
 - a party achieves only partial success,
 - there is a joinder of defendants and the claimant succeeds against some but not all of them,
 - one or more parties is publicly funded,
- the effects of state funding and the statutory charge on civil litigation and counsel's duty to the Legal Services Commission.

23 Judgments and Orders

- who, generally, is responsible for drawing up a judgment / order, together with exceptions to the general rule;
- the consequences where a party fails to draw up and file a judgment / order within the time permitted;
- the time for payment of a money judgment;
- penal notices in interim injunction orders; and
- the form of orders requiring an act to be done.

24 Enforcement of Judgments

- the different methods of enforcing money and other judgments (in outline); and
- which method or combination of methods is appropriate to the particular circumstances of the judgment debtor in question.

[NB This topic will be assessed at the level of junior counsel advising a client on enforcement immediately after a fast track trial.]

25 Judicial Review

- the requirements and principles for obtaining permission to claim judicial review; and
- the availability of remedies of quashing order, mandatory order, prohibiting order, injunction and declaration in judicial review claims.

26 Appeals and references to the ECJ

- the principles and procedures governing civil appeals in England and Wales (excluding appeals to the Supreme Court), comprising permission to appeal, routes of appeal, time for appealing, appellant's notice and grounds on which an appeal may succeed, fresh evidence in appeals, respondent's notice, and skeleton arguments; and
- the principles and procedures governing references to the European Court of Justice.

27 Civil Evidence

All the following rules are to be considered in the context of civil claims on the fast track and multi-track.

- burden and standard of proof [but not presumptions or judicial notice];
- competence and compellability of witnesses;
- the law and practice relating to the admission of hearsay evidence in civil trials;
- the practice and procedure relating to the preparation and exchange of witnesses statements;
- the principles underlying the general exclusionary rule in relation to evidence of opinion and the main exceptions to that rule;
- the special rules relating to the opinion of experts, comprising the definition of an expert, the form of experts' reports, disclosure of reports and literature, use of secondary facts, ultimate issues, and the requirements for permission to use expert evidence and to call experts;
- the principles relating to legal professional privilege, privilege against self-incrimination, without prejudice communications and public interest immunity in civil cases, and exceptions to these rules;
- waiver of privilege;
- evidence rules governing examination-in-chief and cross-examination, comprising: leading and non-leading questions; cross-examination as to credit, the rule of finality, and exceptions to that rule, hostile and unfavourable witnesses; and use of previous consistent and inconsistent evidence;
- previous judgments, comprising *res judicata*, abuse of process and the CEA 1968, s. 11; and
- character evidence.

Assessment:

The knowledge areas are assessed through discrete papers (but also pervasively through the skills assessments). The precise form of assessment is subject to the conditions set out in the Assessment Framework (A2.2). Summative assessment must take the form of one closed book examination, 3 hours long, comprising Part A MCT questions, set centrally, marked centrally and electronically, plus Part B SAQs, set centrally and marked locally (with equal weighting). Candidates are required to pass in each part. Assessment will be such that a broad range of the syllabus is assessed and that any part of it may be assessed. No indication must be given to candidates as to which parts of the syllabus will or will not be assessed.

Reading/Reference List:

Books

A balanced selection which should include:

Civil Procedure (Sweet & Maxwell), known as 'The White Book', must be used as the primary text

Blackstone's Civil Practice (OUP)

A Practical Approach to Civil Procedure, S Sime (OUP)

The Bar Handbook 2011-2012, Simon Garrod and Nicholas Bacon QC, in association with the Bar Council and BSB, 2011 (LexisNexis)

The Civil Court Practice 2011 ('the Green Book'), Editor-in-Chief: The Rt Hon Lord Neuberger of Abbotsbury, March 2011 (LexisNexis) [NB this is not a substitute for the use of the White Book]

2.4j Criminal Litigation, Evidence and Sentencing

Building on criminal law courses of the Qualifying Law Degree, this area will test candidates on current procedures relating to arrests, pre-trial issues, summary and jury trials, sentencing and appeals. It will also test the more important evidential rules that apply to criminal cases.

This section will test whether candidates have a sound knowledge and understanding of the law relating to:

- criminal arrest and the various modes of trial and sentencing
- the roles of the Youth Court, adult Magistrates', Crown and appellate Courts
- jury trials
- evidential rules relating to criminal cases
- sentencing powers of the various courts
- appeal procedures

The candidate must be able to demonstrate a *sound understanding of the criminal process as a whole and how cases progress through the system*. In addition the candidate should be able to demonstrate a sound understanding and knowledge of the following specific topics:

1. the processes related to police investigation and arrest,
2. the law and practice relating to bail in criminal cases,
3. mode of trial, committal, the procedures for sending indictable only cases to the Crown Court and the transfer of cases involving complex fraud and child victims and witnesses,
4. plea and other pre-trial issues in the Magistrates' Court,
5. disclosure of unused material,
6. the conduct of summary trials,
7. the rules relating to indictments, arraignment and conducting pre-trial hearings in the Crown Court,
8. the conduct of jury trials,
9. the main evidential rules relating to criminal trials,
10. the principles, procedures and types of sentence in criminal cases,
11. the procedures for dealing with youth cases,
12. the law and practice of appeals in criminal cases.

Syllabus: Candidates must be able to demonstrate that they have reached the required standard in the syllabus areas specified below.

Section 1: Overview

1. Overview of criminal procedure

- the classification of offences (indictable, either-way and summary)
- the court structure in England and Wales,
- how a criminal case progresses through the system (outline of the progress of the three categories of criminal offence, with respect to adults and of offences of varying seriousness with respect to youths),
- the funding of criminal cases (a detailed knowledge is not required, but candidates should have an understanding of the general structure of funding arrangements),
- the importance and application of the Criminal Procedure rules 2005, in particular the overriding objective and the case management functions of the court (other parts of the rules may be

relevant to individual topics; where this is the case they are specifically referred to below).

Section 2: Criminal investigations, commencement of proceedings and Pre-trial issues

2. Preliminaries to prosecution:

- the structure of the codes of conduct issued under the Police and Criminal Evidence Act 1984 (PACE) and their importance to criminal investigations (outline only),
- the provisions of Code C.10 (cautions and special warnings) and Code C.11 (interviews),
- the provisions of Code D.3 (identification by witnesses),
- the different powers of search and arrest,
- the role of the Crown Prosecution Service,
- the different forms of commencing criminal proceedings.

3. Bail and remands

- the difference between adjournments and remands,
- time limits applicable to defendants remanded in custody,
- the general right to bail under the Bail Act 1976 and the occasions when it does not apply,
- the grounds and reasons for refusing bail,
- bail conditions that can be applied and under what circumstances,
- the practice and procedure on appeal to the Crown Court against a decision to refuse bail in the Magistrates' Court,
- the grounds upon which the prosecution can appeal to the Crown court against a decision to grant bail,
- dealing with defendants who have failed to surrender to bail or breached their bail conditions.

4. Plea in the Magistrates' Court, mode of trial , committal, sending and transfers

- the rules relating to the provision of advance information,
- preliminary hearings in the Magistrates' Court (outline only required)
- pleas generally in the Magistrates' Court, including equivocal pleas,
- the factors which the defendant should be aware of in deciding whether to elect Crown Court trial,
- the approach taken by the magistrates to the question whether or not to accept jurisdiction,
- plea before venue and mode of trial, including the special rules for criminal damage cases,
- committal for sentence,
- the committal of either-way offences to the Crown Court for trial,
- sending indictable only offences to the Crown Court,
- the transfer of complex fraud cases and cases involving child victims and witnesses (outline only),
- the committal/sending of linked summary only cases and the procedure for dealing with them in the Crown Court.

5. Disclosure of unused material and defence statements

- the investigator's duty to retain unused material,
- the prosecutor's duty of disclosure,
- the test for determining whether unused material should be disclosed by the prosecution, including the requirement of continuous review,
- time limits for prosecution disclosure,
- applications to compel the prosecution to disclose,
- defence duties of disclosure,
- the requirements relating to the contents of a defence statement,
- the consequences of defence failures in the disclosure process,
- public interest immunity and public policy,

- third party disclosure.

6. Indictments

- the time limits for preferring a bill of indictment,
- the structure and format of an indictment,
- the format of a count,
- counts which can lawfully be joined on an indictment,
- the rules relating to duplicity, specimen counts and overloading of indictments,
- the joinder of defendants on an indictment,
- applications to sever the indictment,
- the consequences of misjoinder,
- applications to amend indictments,
- applications to stay and quash indictments,
- voluntary bills of indictment (outline only).

7. Preliminaries to trial in the Crown Court

- the plea and case management hearing in the Crown Court and its importance to case management,
- arraignment,
- special pleas, autrefois acquit and convict (outline only)
- pleas to alternative counts, offering no evidence and leaving counts to lie on file,
- preliminary and pre-trial hearings in complex and serious and sensitive cases, including the powers of dismissal of transferred and sent cases.

Section 3: Procedural and evidential issues relating to criminal trials

8. Summary trial procedure

- the circumstances in which the Magistrates can proceed in the absence of the defendant,
- abuse of process in the Magistrates' Court (outline only),
- the procedural steps in a summary trial, including reading statements and formal admissions,
- submission of no case to answer
- order of speeches,
- verdicts,
- costs after trial (outline only),
- the role of the Magistrates' Legal Advisor in the trial (outline only).

9. Jury trial procedure

- judge only trials (outline only),
- proceeding in the absence of the defendant,
- abuse of process in the Crown Court (outline only),
- the law and practice relating to juries, including the circumstances when individual jurors or the whole jury can be discharged,
- procedural steps in a jury trial, including submissions of no case to answer, formal admissions and reading statements,
- dealing with points of law during the trial, including the procedure for determining the admissibility of evidence,
- speeches,
- the content of summing up,
- verdicts, including majority verdicts and conviction of a lesser offence,

- costs after trial (Outline only).

10. Preliminary evidential matters

- the basic terminology of evidence,
- facts in issue,
- relevance,
- admissibility, including the discretionary power to exclude under s78 and the common law powers to exclude evidence,
- weight,
- tribunals of fact and law,
- presumptions (outline only).

11. Burden and standard of proof

- the distinction between the legal burden and the evidential burden of proof,
- the general rule concerning the incidence of the burden of proof in criminal cases and the exceptions to it,
- the standard of proof required in criminal cases when the legal burden rests on the prosecution,
- the standard of proof required when the legal burden rests on the defence.

12. Preliminary issues relating to Witnesses

- competence and compellability,
- oaths and affirmations,
- the principles and procedure for the issue of a witness summons and warrant of arrest (outline only).

13. The rules relating to the examination of Witnesses

- examination in chief: form of questioning, memory refreshing, the use of previous consistent statements, hostile witnesses,
- Cross examination: form of questioning, previous inconsistent statements, restrictions on cross-examination, including finality on collateral matters,
- re-examination: form of questions,
- the special measures available to vulnerable witnesses and witnesses in fear of testifying.

14. Hearsay evidence

- the definition of hearsay under the Criminal Justice Act 2003,
- the difference between hearsay and original evidence,
- the difference between hearsay and real evidence,
- general restriction on the admissibility of hearsay evidence,
- the gateways to admissibility under the Criminal Justice Act 2003,
- how to make applications to adduce hearsay evidence and the procedural requirements for making such applications under the Criminal Procedure Rules,
- how to apply to exclude hearsay evidence and what safeguards are set out in the Criminal Justice Act 2003,
- procedural requirements relating to applications to exclude under the Criminal Procedure rules.

15. Character evidence

- the definition of bad character under the Criminal Justice Act 2003,
- the gateways for admissibility of non-defendant bad character,

- the gateways for admissibility of defendant bad character,
- how to make applications to adduce bad character evidence and the procedural requirements for such applications under the Criminal Procedure rules,
- how to make applications to exclude bad character evidence and the grounds upon which such evidence can be excluded,
- the tactical use of character evidence,
- proving convictions under ss73 – 75 of PACE
- good character directions.

16. Confessions and unlawfully obtained evidence

- the definition of confessions under PACE,
- the principles governing the admissibility of confessions, including reference to the effect of breaches of the Codes issued under PACE,
- the admissibility of evidence obtained as a result of inadmissible confessions,
- how to make or challenge applications to exclude confessions during the course of the trial,
- the principles governing the exclusion of other prosecution evidence under s78 of PACE,
- common categories of evidence that are the subject of applications to exclude under s78 of PACE,
- how to make or challenge applications to exclude to evidence under s78 of PACE.

17. Inferences from the defendant's silence and other conduct

- the evidential significance of the defendant's lies and what directions should be given to the jury,
- the principles that apply to and the potential consequences of the defendant's failure to mention facts when questioned: s 34 of the Criminal Justice and Public Order Act 1994,
- the principles that apply to and the potential consequences of the defendant's failure to account for objects, substances and marks: s 36 of the Criminal Justice and Public Order Act 1994,
- the principles that apply to and the potential consequences of the defendant's failure to account for his presence at the scene of a crime: s37 of the Criminal Justice and Public Order Act 1994,
- the principles that apply to and the potential consequences of the defendant's failure to testify in his own defence during the trial: s 35 of the Criminal Justice and Public Order Act 1994, including the advice that should be given to a defendant about this issue.

18. Identification evidence and other issues relating to corroboration

- the special need for caution required in identification cases ,
- the circumstances in which the judge may withdraw an identification case from the jury,
- the nature and content of a "Turnbull" warning,
- the grounds on which the judge might exclude identification evidence (consideration of Code D.3 of PACE will also be required),
- how to make or challenge applications to exclude identification evidence,
- the circumstances in which the judge might warn the jury about "suspect" evidence as set out in the case of R v. Makanjuola [1995] 2 Cr App R 469

19. Opinion evidence and experts

- the general prohibition on the use of opinion evidence in criminal cases,
- the exception to this rule in relation to expert evidence,
- the definition of an expert,
- the scope and limits of expert evidence in the trial,
- the procedural requirements for the introduction of expert evidence under the Criminal Procedure Rules.

20. Privilege

- the privilege against self-incrimination,
- the principles that apply to legal professional privilege, including waiver of privilege.

Section 4: Cases involving Youths

21. Youth courts

- the categorisation of youths into “child” and “young person” and its legal consequences,
- the diversion of youths from the criminal justice system by the use of reprimands and warnings etc (outline only),
- the procedure in the Youth Court and how it differs from the adult court,
- the circumstances in which a youth will appear in the adult Magistrates’ Court and in the Crown Court, including *brief* reference to how the dangerous offender provisions apply to youths,
- the sentences available to the Youth Court.

Section 5: Sentencing

22. Sentencing principles

- the sentencing powers of the magistrates’ court and the Crown Court (including, their power to sentence youths)
- the sentencing procedure in the Magistrates’ court
- the sentencing procedure in the Crown Court, including committals for sentence,
- determining the facts of the offence, including Newton hearings, the use of a basis of plea and pre-sentence reports,
- indications as to sentence,
- the role of prosecuting counsel in sentence,
- the purposes of sentence,
- the principles relevant to the assessment of seriousness,
- common aggravating and mitigating features of cases, including discount for a guilty plea,
- custody and community sentence thresholds,
- the purpose of the Sentencing Guidelines Council and how it issues guidance for the courts, including the importance of Court of Appeal guideline cases.

23. Non-custodial sentences

- the principles for the imposition of absolute and conditional discharges,
- the principles relevant to the imposition of a fine, including the consequences of default,
- the principles for the imposition of a community sentence, including the objectives of such sentences,
- the main types of community sentences available to the courts,
- the consequences of breach of a community sentence,
- binding over orders (outline only).

24. Custodial sentences

- the requirements before a custodial sentence can be passed,
- concurrent and consecutive sentences, including the totality principle,
- suspended sentences,
- mandatory and minimum sentences,
- principles applicable in determining the length of custodial sentences,

- provisions as to early release and time spent on remand (outline only).

25. Ancillary orders and costs on conviction

- costs on conviction (outline only),
- compensation,
- forfeiture and deprivation orders,
- endorsement of driving licences and disqualification (outline only),
- registration of sex offenders
- confiscation under the Proceeds of Crime Act 2002 (brief outline only).

26. The dangerous offender provisions

- how to identify specified offences,
- the principles involved in the assessment of dangerousness
- the nature of and conditions for the imposition of life sentences, imprisonment for public protection and extended sentences under the dangerous offender provisions.

Section 6: Appeals

27. Appeals from the Magistrates' Court

- The power of the Magistrates to rectify mistakes,
- the general right of appeal from the Magistrates' court to the Crown Court,
- the procedure in the Crown Court for dealing with the appeal, including the constitution of the court,
- the powers of the Crown Court on appeal, including the power to increase sentence,
- appeal to the High Court by case stated (outline only),
- appeal to the High Court by judicial review (outline only).

28. Appeals from the Crown Court

- The power of the Crown Court to rectify mistakes as to sentence
- the right to appeal to the Court of Appeal (CA),
- the requirement to obtain leave to appeal to the CA,
- the more common grounds that can give rise to appeal against conviction and sentence,
- the procedural requirements for applying for leave under the Criminal Procedure Rules, including the practical steps that counsel should take when advising and preparing grounds of appeal,
- renewal of application before full court after a refusal by single judge,
- the power of the Court to make a loss of time direction,
- the rules concerning the CA hearing fresh evidence during the appeal,
- the principles and procedure the CA will adopt when determining appeals against conviction and sentence,
- consequences of a conviction being quashed, including ordering re-trials,
- Attorney General's references on points of law and references of unduly lenient sentences,
- Prosecution appeals against trial judge rulings,
- The Criminal Cases Review Commission (brief outline only),
- appeals to the Supreme Court (outline only).

Assessment:

The knowledge areas are assessed through separate papers (but also pervasively through the skills assessments). The precise form of assessment is subject to the conditions set out in the Assessment Framework (see A2.2). Summative assessment must take the form of one closed book examination³

hours long, comprising Part A MCT questions, set centrally, marked centrally and electronically, plus Part B SAQs, set centrally and marked locally. There must be a pass in each part. Assessment will be such that a broad range of the syllabus is assessed and that any part of it may be assessed. No indication must be given to candidates as to which parts of the syllabus will or will not be assessed

Reading/Reference List:

Law reports

Criminal Appeal Reports (1908-)
Criminal Appeal Reports (Sentencing) (1979-)
Criminal Law Review (1954-)
Justice of the Peace Reports (1903-) – at least a 5 year backrun
Road Traffic Law Reports (1970-)

Practitioner works

Archbold's Criminal Pleading and Practice (Sweet & Maxwell, annual)
Archbold's Magistrates' Court Criminal Practice (Sweet and Maxwell, annual)
Blackstone's Criminal Practice (Oxford University Press, annual)
Thomas, D.A. (ed.). Current Sentencing Practice (including the Sentencing Referencer). (Sweet & Maxwell)
Stones Justices Manual, (Butterworth Law, annual)

Electronic sources

The Stationery Office: www.opsi.gov.uk
The Judicial Studies Board: www.jsboard.co.uk
The Sentencing Guidelines Council: www.sentencing-guidelines.gov.uk
The criminal justice system online: www.cjonline.gov.uk
The Crown Prosecution Service: www.cps.gov.uk

Finding tools

Anthony and Berryman: Magistrates' Court Guide (Butterworth Law, annual)
Morrish and Mclean: Crown court index (Thompson Sweet and Maxwell)
Criminal Law Week (1997-)

2.4k Professional Ethics

This section highlights the core professional values which underpin practice at the Bar of England and Wales. It will test whether candidates possess the essential qualities of ethical behaviour at the Bar, at a high level these. Encompassing more than the knowledge and formalities outlined in the Professional Code of Conduct, this will test far reaching and fundamental knowledge of ethics that underlies practice at the Bar

This section will test whether candidates have a sound knowledge and understanding of:

- the fundamental concepts of professional and ethical values required of a practising barrister at the Bar of England and Wales are inculcated in the candidate
- the candidate has knowledge and understanding of the philosophical issues and purposes underpinning ethical behaviour, including the concept of duty in professional life both to the client and to the rule of law
- the candidate has in depth knowledge and understanding of the requirements of the Code of Conduct and the Equality code (as in place at the time of the Test).

The candidate must:

1. understand and appreciate the core professional values which underpin practice at the Bar of England and Wales, particularly the additional moral responsibilities held by the profession (over and above the population in general) due to decision-making roles, functions and authority which are key to practice at the Bar
2. correctly identify issues of professional ethics and conduct which appear in given situations as likely to arise in a barrister's practice (eg conflict of interest)
3. demonstrate a sound working knowledge of the provisions of the Code of Conduct of the Bar of England and Wales, and demonstrate existing and future adherence to that Code
4. demonstrate the capacity to provide a professional and responsible approach to clients who place trust in the profession on the basis that the service provided will be of benefit
5. display a professional and responsible approach to the assessment process and advocacy course, staff and other candidates, and to observe the Code of Practice in order to prevent exploitation of clients and preserve the integrity of the profession, maintaining the public's trust and ensuring continuance of the provision of service
6. be instilled with diversity awareness

Syllabus: Candidates must have reached the required standard in the syllabus areas specified below:

1 Ethical Issues at the Bar

- core professional values which underpin practice at the Bar of England and Wales (what is meant by ethics and why it matters; the ethics according to which barristers work in England and Wales);
- the disability and equality code, and issues related to working in a multi cultural and diverse society
- core principles underpinning the Code of Conduct and Bar Council guidance including:
 - the principle of professional independence
 - the principle of integrity
 - the principle of duty to the court
 - the principle of loyalty to the lay client
 - an understanding of the problems and perception of conflict of interest
 - the principle of non-discrimination on grounds of gender, race, ethnicity or sexual orientation

- commitments to maintaining the highest professional standards of work, to the proper and efficient administration of justice and to the Rule of Law
- issues of professional ethics and conduct which appear in given situations likely to arise in a barrister's practice (including requirements as to the client's identity, the proper keeping of records, and knowledge and awareness of money laundering regulation)
- the 'Cab Rank Rule' and its importance
- provisions of the Code of Conduct of the Bar of England and Wales (in given situations) – instilling the ability to follow the spirit of the Code in situations where there is no provision that is directly applicable
- reconciling the different duties owed to a professional client, lay client, the court, and the Legal Services Commission
 - duties to the Lay Client including performance in and out of court, privilege and confidentiality issues
 - duty to the court – not misleading the court, dealing with clients' previous convictions, pleading fraud
- means of handling relationships with other people: opponents and colleagues; the tribunal; judiciary; instructing solicitors; clients (both lay and expert); court clerks; dealing with witnesses
- consideration of dishonest conduct and conduct likely to diminish public confidence in the legal profession
- choosing the course of action which is consistent with the provisions and principles of the Code; where to find guidance if/when needed.

2 Personal attributes and skills

- professional and responsible approaches to the profession, to the BTT process and to their obligations to staff and other candidates
- approach to equality issues, including non-discrimination on grounds of gender, race, disability, age, sexual orientation or religious belief; awareness of equality issues; need for 'reasonable adjustment' where appropriate
- the Complaints procedure and penalties for infringement of the Code of Conduct (what happens if things go wrong and how to minimise the risk)
- and awareness of penalties for academic offences on the BPTC.

Assessment:

Candidates will be assessed and be judged competent in professional ethics and conduct, and they should, on a regular basis, be required to make explicit use of the Code in timetabled lessons. The tutor notes accompanying these lessons should clearly indicate the nature of the issue(s) and possible responses. The precise form of assessment is subject to the conditions set out in the Assessment Framework (A2.1.3). Formative-only exercises may be used. Summative assessment must take the form of one closed book examination, 2 hours long, comprising Part A, MCT questions, set centrally, marked centrally and electronically, plus Part B SAQs, set centrally and marked locally. There must be a pass in each part. Assessment will be such that a broad range of the syllabus is assessed and that any part of it may be assessed. No indication must be given to candidates as to which parts of the syllabus will or will not be assessed.

Reading/Reference List:

Code of Conduct of the Bar of England and Wales (latest edition)
Boon, A & Levin, J: *The Ethics and Conduct of Lawyers in England and Wales* (Hart)
A balanced selection of textbooks on professional ethics and client care
Bar Council/BSB Equality and Diversity Code
JSB Equal Treatment Bench Book

2.41 Opinion Writing

The aim of this section is to test the candidate's skill in opinion writing; that is, providing written advice to the instructing solicitor and lay client. Providing written advice in the forms of opinions is an important part of professional activity. Opinions must be practical, reliable, clear and well-presented.

This section will test whether candidates have a sound knowledge and understanding of:

- the transition from the academic sphere into the professional sphere in which they hope to prosper in competition with other skilled professionals, in assisting clients with particular legal problems
- the need to:
 - understand the client's problem and do their best (subject always to ethical considerations) to provide a practical solution to the problem
 - understand the facts, distinguishing between those which are undisputed and those which are likely to be in dispute, and distinguishing the relevant from the irrelevant (a process which interacts with analysis of the applicable law)
 - have a sound knowledge of the applicable law, analysing the problem so as to give reliable and realistic advice on its solution
 - provide advice that is clear, practical and as definite as possible
 - (in giving written advice) eliminate mistakes in spelling and grammar, cultivate a clear and concise prose style, and present the opinion in a professional format.
- the ability to identify clients' needs through a thorough grasp of the facts, the law and the relevant procedures
- the skill of analytical reasoning.

The candidate must be able to:

- identify and address the needs and objectives of the client and seek (subject always to ethical considerations) to provide a practical solution to the client's problems
- accurately identify and show a thorough grasp of all the material facts, the relevant law, the real issues, the relevant procedure, parties and evidence, distinguishing one issue from another; and asking
- identify and ask for further information/evidence, when necessary
- give clear, sound, practical advice on the matters raised in the instructions and advise on any practical steps to be taken
 - where appropriate, advise on the need for expert evidence, on quantum of damages, and on any limitation aspects
 - and generally give realistic and practical advice as to steps to be taken, including further inquiries or investigations, compliance with pre-action protocols, and other protocols necessary to take the matter forward.
- in addition, opinions must:
 - cover everything that needs to be covered, be fully reasoned and follow a clear line of reasoning
 - answer all questions put in instructions
 - use a clear and appropriate structure, dealing with each issue in a logical order and separating issues into paragraphs in a sensible way, dealing with one issue at a time and giving each its due weight and significance
 - be signed and dated, properly headed and laid out, making sensible use of sub-headings where appropriate, and written in a style appropriate to an Opinion
 - be in clear grammatical English, correctly spelt, appropriately punctuated and written fluently and concisely in appropriate language

- follow a logical order, distinguishing between different topics with appropriate subheadings
- be as short as is consistent with advising properly on all aspects of the matter.

Syllabus: Candidates must be able to demonstrate that they have reached the required standard in the areas specified below.

1 Overview

- needs and objectives of the client; solution of the client's problems
- identification of material facts, relevant law, real issues, relevant procedure and evidence; - distinction between issues
- specialised language and grammar
- headings, sub-headings, lay out and style; lines of reasoning
- structure, order, weight and significance; conciseness and length
- practical approach, as opposed to academic discussion of the law
- addressing questions expressly or implicitly raised in the instructions by expressing clear conclusions where appropriate, alternatively explaining why there can be no clear conclusions
- explanation of legal and factual alternatives, and setting out of conclusions, with full advice
- identifying the need for relevant further information/evidence, explaining where appropriate why the further information is needed
- providing clear, identifiable, appropriate, sound, practical advice on the matters raised in the instructions.

Assessment

Assessment of writing and drafting skills is carried out through the whole range of assessments (with the exception of Multiple Choice Questions). Written exercises require the application of legal research and legal knowledge. Poor English, grammar and syntax will be penalised.

2.4m Drafting

The aim of this section is test the candidate on his/her critical knowledge, understanding and the conceptual and analytical skills necessary to draft a variety of documents including, inter alia, Claim Forms, Statements of Case and Witness Statements, Indictment, Grounds and Advice on Appeal in a criminal case.

This section will test whether candidates can:

- demonstrate an understanding of the nature, function and value of pleadings and learn to draft a full range of pleadings and other documents from simple to complex in civil and criminal proceedings using precedent appropriately
- analyse critically a range of legal issues (claims, Witness Statements, Indictments, Grounds of Appeal and Advice on Appeal in a criminal case and settlement agreements)
- demonstrate practical skills in drafting so that documents are properly presented and structured in clear grammatical and correct English.

The candidate must be able to:

- demonstrate a sound understanding of the nature, function and value of pleadings
- draft a full range of pleadings and other documents from simple to complex in civil and criminal proceedings using precedent appropriately (for example Particulars of Claim in a Claim Form; Any Statement of Case; Order; Witness Statement; Indictment; Grounds of Appeal and Advice on Appeal in a criminal case. Part 8 Claim Form; compromise agreement)
- draft documents that are written in clear grammatical English, correctly spelt and appropriately punctuated, and in a style that is fluent and concise, and appropriate to the document
- draft documents that are well structured, with proper headings and laid out, neat on the page, and containing all necessary formalities
- produce work that is accurate and contains correct figures and sums
- produce drafts that are precise and unambiguous, in terms that are appropriate, in compliance with the requirements of practice, sound in law, settled in the appropriate court and drafted to achieve the objectives agreed with the client
- analyse and set out the material facts and tell a clear story, identifying the material issues and omitting all immaterial matters
- accurately state the client's case, and identify the relief sought.

Syllabus: Candidates must be able to demonstrate that they have reached the required standard in the areas specified below.

1 General drafting

- Claim form with Particulars of Claim;
- Statement of Case;
- Order;
- witness statement;
- indictment;
- grounds of appeal and advice on appeal in a criminal case.
- Part 8 Claim Form;
- settlement/compromise agreement.

2 Style and terminology

- stating the client's case, and identify the relief sought.

- application of material facts, clarity and identifying material issues (omitting all immaterial matters);
- requirements of practice, relevant law, and court procedures;
- relation structurally to other documents and consistency with accompanying advice;
- use of precedents;
- drafting, terminology;
- accurate and correct use of figures and sums;
- grammatical English, correctly spelt and appropriately punctuated;
- language and style appropriate to the document;
- headings and lay out, formalities and structure.

3 Remedies (general)

- whether a range of remedies should be pursued; and
- applicable time limits.

4 Contract

- pleading and responding to the correct heads of damages for breach of contract, including limitations on compensatory damages;
- pleading quantum in accordance with the correct legal principles and consistently with the evidence;
- the availability of equitable remedies, including specific performance, injunctions, rescission and rectification;
- remedies for misrepresentation;
- pleading claims for interest pursuant to contract or statute (Judgments Act 1838; Late Payment of Commercial Debts (Interest) Act 1998).

5 Tort

- pleading and responding to the correct heads of damages, the calculation of quantum, the reduction of damages, aggravated and exemplary damages and the availability of injunctions; and
- quantifying damages in cases of personal injury;
- pleading interest on damages in claims for personal injury.

Assessment

Assessment of writing and drafting skills is carried out through the whole range of assessments (with the exception of Multiple Choice Questions). Written exercises require the application of legal research and legal knowledge. Poor English, grammar and syntax will be penalised.

Reading/Reference List:

A balanced selection which may include:

Butterworths Civil Court Precedents

Encyclopedia of Forms & Precedents (LexisNexis Butterworths)

The Litigation Practice (Sweet & Maxwell)

Practical Civil Courts Precedents (Sweet & Maxwell)

A balanced selection which may include:

Atkins Court Forms

Blackstone's Civil Practice (OUP)

Bullen, E., Leake, S.M, Jacob, Sir J.I.H, *Bullen, Leake and Jacob's Precedents of Pleadings* (Sweet & Maxwell)

Civil Procedure (Sweet & Maxwell)

Drafting Manual, CLS, (OUP)

Pleadings Without Tears, W Rose (OUP)

A3 Taught course

3.1 Advocacy

All candidates taking assessments in advocacy must attend, before the assessment, a training course provided by individual(s) other than those conducting the final assessment.

The course seeks to:

- provide the skills necessary to prepare, manage, present and/or respond to a case or legal argument, both orally and in writing, before a court or other tribunal, whether formal or informal
- provide, at an initial level, the essential skills for a persuasive modern advocate, to high ethical standards and as defined by the 'Dutton criteria'³:
 - the ability to persuade orally
 - the ability to persuade in written argument
 - cogent legal and factual analysis
 - the ability to develop reasoned argument, and
 - forensic skills with evidence (both written and oral)
- prepare candidates for the advocacy training methods to which they will be exposed in pupillage and thereafter;
- introduce candidates to the advocacy training methods approved by the Advocacy Training Council, by training candidates strictly in accordance with those methods;
- provide knowledge and understanding of the manner in which legal submissions should be made and responded to.

ATC methods of training (ie the Hampel Method) must be used but this may be modified in accordance with the guidance provided. The Hampel Method must be used in the final stages of advocacy teaching (ie by the completion of advocacy training during the course, candidates must be taught by means of and be experienced in the Hampel Method).

The diet of advocacy practice and final assessments must contain the following elements:

- submission of written argument;
- advancing and responding to legal, factual and procedural submissions; knowledge and application of legal principle;
- witness handling, including examination in chief, cross examination and re-examination;
- dealing with interventions from the bench

[NB Forms of written advocacy should also be covered as appropriate. Case studies in either Civil or Criminal Law may be used for practice on the taught advocacy course that supports this part of the Test, but candidates may choose to be assessed in either Civil or Criminal.]

³ Bar Council Report, 2002, see *Advocacy Training Council website*:
http://www.advocacytrainingcouncil.org/index.php?option=com_content&view=article&id=58:the-dutton-criteria&catid=35:advocacy

3.2 Guidance on use of the Hampel method for the BTT

The six stages of the Hampel Method (Headnote – Playback – Reason – Remedy – Demonstration – Replay) must be covered at the BTT level, as the recognised best practice for advocacy. Scope is allowed for continued innovation and improvement in the way that the BTT Providers construct their advocacy programmes. However, the application of the Hampel Method is expected (ie required by the BSB) on the BTT. Candidates must have been trained in accordance with the Hampel Method so that they are properly prepared when they come to the compulsory advocacy course in the first six months of their pupillage.

Only tutors who have been accredited by the BSB on the recommendation of the ATC may teach advocacy to BTT candidates. For the purpose of accreditation, tutors must be fully acquainted with and competent in teaching according to the Hampel Method. They are required to demonstrate proficiency in the application of the Hampel Method to the ATC.

3.3 Resources

General Requirements

- 1 Accommodation must be appropriate to professional training in specification and presentation.
- 2 Institutions will be expected to ensure that all reasonable adjustments are made to accommodate disabled candidates, and in accordance with current legislation on disability and equality [see also section on assessment below].
- 3 Lecture theatres must contain modern presentational tools (eg video or DVD, PowerPoint, CD-ROM, Internet, OHP). The acoustics and sight lines of the lecture theatre must be satisfactory. The layout should facilitate an interactive approach to teaching in large group sessions and the seating ideally should be raked.

Seminar Rooms

- Seminar rooms must be of sufficient size to conduct oral skills in groups of twelve comfortably.
- Furnishings and the size and nature of the room must be sufficiently flexible to be able to conduct advocacy exercises that facilitate behaviour in court (stance, voice projection, position of court officers, witnesses, defendants etc) and in the judge's chambers, with other candidates being well sighted to observe comfortably.
- Court room furniture, whether demountable or permanent, must be available in a sufficient number of seminar rooms to enable advocacy exercises to take place in a court room setting regularly.
- A permanent mock court room must be available.
- A video/DVD camera/player and TV must be available in each room.
- Core practitioner works must be readily available for reference

Library

Each Provider shall have a dedicated law library, including a practitioners' library that houses the reference material and meets the other specifications relevant to the provision of a library.

The law library should meet the essential criteria for law library provision outlined in the *Statement of Standards and Indicative List* (2003) published by the Society of Legal Scholars (or its current version), available at <http://www.legalscholars.ac.uk/documents/standards2003.pdf>.

This sets out the standards that a law library established for educational purposes should provide to meet the resource needs of staff and candidates. The *Statement* is wide-ranging in scope and covers management, liaison and staffing issues, services to candidates, space and physical facilities, the content of printed collections and electronic database provision.

The library provision as a whole should be to a practitioner level, with an appropriate range of practitioner works (treatises, encyclopedias, precedents) for all areas of legal practice assessed and taught during the BTT, and consistent with the principles set out in the *Statement of Standards and Indicative List*. Providers must include texts for the study of professional ethics and practice, the knowledge subjects and the skills. A suitable balance between printed and electronic formats must be maintained. A range of different types of publication must also be offered, which must include law reports, law journals, encyclopedias and loose-leaf works, other practitioner works and finding tools.

Collections must be kept up-to-date with loose-leaf works regularly updated. The latest editions of textbooks must be purchased. Sufficient multiple copies must be provided, and alternative and specialist works must be available where the syllabus requires. The library must be open in term time for at least 11 hours a day from Monday to Friday inclusive, 7 hours on Saturdays and on Sundays where practicable. Opening times must adequately address the support needs of BTT candidates.

Part B Regulations

B1 General regulations

[See section C1 for general advice and guidance]

1.1 Definitions

These Regulations are made in accordance with the Bar Training Regulations. The Regulations and Handbook in force at the time the BTT is taken will apply, regardless of whether previous registration or attempts have taken place.

Definitions:

(a) 'Qualified Lawyer' (definitions in accordance with the BTRs)

"Qualified Lawyer" means a person who is a member of an Authorised Body, a Qualified European Lawyer or a Qualified Foreign Lawyer

"Qualified European Lawyer" has the meaning ascribed to it in Part XII of the BTR: "Qualified European Lawyer" means a person who is a national of a Relevant State and who either: holds a diploma required in a Relevant State for the practice of a legal profession regulated by that State which diploma satisfies the requirements of Regulation 22(1)(a) of the European Qualification Regulations; or satisfies the requirements of Regulation 22(1)(b) of the European Qualification Regulations.

"Qualified Foreign Lawyer" has the meaning ascribed to it in Part XII of the BTR: "Qualified Foreign Lawyer" means a person who is a member of a legal profession regulated in a jurisdiction outside England and Wales and entitled to practise as such.

(b) 'The Qualifications Committee': The Qualifications Committee as defined in Schedule 1 of the Bar Training Regulations (or any successor body);

(c) 'The Test': The Bar Transfer Test for candidates for admission to the Bar of England and Wales who are required to take the Test by the Qualifications Committee pursuant to Part VII of the Bar Training Regulations. It is an examination administered by the BSB which: (a) is designed to assess whether a person has the professional knowledge (including knowledge of the rules of professional conduct) required in order to practise as a barrister in England and Wales; and (b) covers subjects not already covered by the education and training of the person concerned, the knowledge of which is essential for such practice.

(d) 'The Bar Standards Board': the regulatory arm of the General Council of the Bar of England and Wales (or any successor body);

(e) 'The Education and Training Committee': the Education and Training Committee of the Bar Standards Board (or any successor body);

(f) 'The BPTC Sub Committee': the body responsible for oversight of the Test and the Bar Professional Training Course under delegated powers from the Education & Training Committee;

(g) 'The Examination Board': the Board of Examiners for the Test in accordance with Regulation 3.4 below;

(h) 'The Provider': the institution (or institutions) that has/have been approved by the Education and Training Committee to administer, deliver and assess the Test, on behalf of the BSB;

(i) 'The Director': the person or persons appointed as Director for the BTT (at one or more Provider)

(j) 'The Provider' an organisation that has been approved by the Education and Training Committee to administer, deliver and assess the Test, on behalf of the BSB;

(k) 'The Examiners': persons employed by an assessment body Provider who are recognised by the BPTC Sub Committee as responsible for examining elements of the Test;

(l) 'The External Examiners': persons appointed by the BPTC Sub Committee in order to scrutinise and comment upon the content and the marking of the Test, who shall be appointed on the basis of their expertise in the areas to be assessed in the Test. There will be one appointed to moderate each subject area of the BTT.

B2 Admission Regulations

See section C2 for advice and guidance on applications and admissions

2.1 Entry Requirements

2.1.1 Transfer to the Bar of England and Wales by means of the Bar Transfer Test route, is designed for candidates who are qualified lawyers from a recognised jurisdiction (see definitions above).

2.1.2 The requirements apply to any person required to take the bar Transfer test as a condition of being granted exemptions from the standards training requirements for qualification as a barrister. This includes:

- European Union Lawyers (including 'Morgenbesser' candidates)
- Solicitors admitted in England & Wales or Northern Ireland
- Northern Ireland Barristers
- Scottish Advocates
- Hong Kong Barristers
- Practitioners in other common law jurisdictions
- Legal Executives, Licensed Conveyancers, Patent and Trade Mark Attorneys, Law Costs Draftsmen and Notaries and others regulated by Approved Regulators under the Legal Services Act 2007
- Legal Academics

2.1.3 The Qualifications Committee manages the applications process (for which see <http://www.barstandardsboard.org.uk/qualifying-as-a-barrister/transferring-lawyers/>) and has the power to exempt individuals from the Academic, Vocational and/or Professional stages of training for the Bar. Such exemptions may be granted subject to passing certain sections of the Bar Transfer Test. Assessments must be undertaken in accordance with the Assessment Regulations. Any requirements from which an applicant is not granted exemptions (e.g. membership of an Inn of Court, completion of pupillage) must be fulfilled.

2.2 Membership of an Inn of Court

2.2.1 Membership of an Inn of Court is required prior to the completion of Qualifying Sessions and Call to the Bar of England and Wales. Although membership is not required prior to the taking of the BTT, candidates may wish to join before taking the BTT in order to complete their Qualifying Sessions.

2.2.2 In accordance with BTR Candidates are required to complete a number of Inns Qualifying Sessions. These must be completed prior to Call to the Bar (see guidance in Appendix D).

B3 Assessment Regulations

[See section C3 for advice and guidance on assessment]

3.1 Overview

3.1.1 The Test shall be conducted in the English Language and shall consist of written assessments and oral assessments in the knowledge areas and skills as specified in Part A of this Handbook.

3.1.2 Fluency in the English Language will also be an explicit consideration for the examiners. Assessments (both oral and written) must be presented in a standard of English that is appropriate for an advocate appearing in a court or tribunal in England and Wales and for providing written and oral advice outside court (see section C3).

3.1.3 There will be two sittings of the Test each year, set approximately 6 months apart, and to coincide with the dates for Centralised examinations for the BPTC (ie examinations in April and late August, with corresponding Examination Boards in June and September/October).

3.1.4 Candidates who are only required to take the assessment of knowledge of the rules of professional conduct may exceptionally be allowed at the discretion of the Examiners to take the Test at other times of the year.

3.1.5 It is the responsibility of each candidate to ensure that he or she does not commit any breach of these Regulations.

3.2 Conduct of examinations and responsibilities of the BPTC Subcommittee

The Test shall be conducted under the supervision and direction of the Bar Standards Board acting through the Education and Training Committee and appointed Provider(s) of the BTT. Individuals responsible for training must not also perform the role of assessor. The Education and Training Committee will (acting through the BPTC subcommittee) be responsible for the following:

- a. Approval of the Provider(s) of the BTT
- b. Approval of regulations for and instructions to candidates relating to the conduct of the Test
- c. Approval of syllabuses for the subject areas of the test
- d. Approval of the structure and format of the written examination papers and the oral assessments
- e. Approval of regulations for the assessment of candidates for the Test;
- f. Approval of review procedures and such counselling and advice services (as section A5.6) as may be provided for the candidates before taking, or on failing, the Test;
- g. Reviewing and recommending where appropriate to the Education & Training Committee for communication to the Bar Standards Board amendments to the BTT Regulations and/or the Bar Training Regulations;
- h. The detailed planning and conduct of the Test
- i. The issuing of guidance issued to candidates for the Test as to study materials and methods of preparation
- j. The publication of the results of the Test

3.3 Marking and Grading

3.3.1 Candidates for the Test will be graded as passed or failed on each element, so that decisions can be made concerning whether they have passed the BTT overall, failed, or need to be referred to do resits either as an additional recorded opportunity or 'as if for the first time'

3.3.2 Pass marks

The pass mark for sections related to the QLD/CPE and Foundation subjects (Public Law; Law of the EU; Criminal Law; Obligations, Contract and Tort; Property/land law; Equity and Trusts; English Legal System) is 40% (60% for written skills).

The pass mark for sections related to the BPTC (Advocacy; Civil Litigation Evidence and remedies; Criminal Litigation, Evidence and Sentencing; Professional Ethics; Opinion Writing and Drafting) is 60%. The Centralised Examinations will be identical in timing, content and grading to those taken by BPTC students.

3.4 The Examination Board

The Examination Board shall comprise:

- The Chair of the BPTC Sub Committee (or his/her nominee), who shall act as Chair of the Board of Examiners
- The Director of the BTT at the approved Provider(s)
- All Examiners of the Test, including all External Examiners

The Examination Board shall be considered quorate if the Chair of the Board of Examiners, Director the BTT and at least one External Examiner are present (in person or by telephone, skype or video link).

3.5 Duties of the Examination Board

The Examination Board will be responsible for the following:

- a. Approval of examination dates for the Test
- b. The commissioning of specimen and actual written examination papers, including:
 - those that are examined centrally (as for the BPTC)
 - oral assessments
 - all written examination papers
- c. Approval of all necessary physical and other arrangements for the conduct of the Test
- d. Supervision of all arrangements for the setting, marking and moderation of examination papers and assessments (including arrangements for internal first and second marking, and moderation of assessments by BSB appointed External Examiners)
- e. Consideration of results of the Test to determine which candidates have passed or failed the Test at each sitting (that is, approval of grades and the consequent passing, failure, referral or deferral of candidates and, where necessary, means for the retrieval of failure)
- f. Consideration of cases where mitigating circumstances have been submitted (the remedy being an attempt being discounted in terms of resit opportunities). There will be no adjustment of marks due to mitigating circumstances.

3.6 Resitting and retrieval of failure

3.6.1 Any individual section failed on first attempt may be taken a second time.

3.6.2 A candidate who fails the second attempt at any section will be required to resit all the sections they are required to undertake at the next sitting of their choice (but within the period allocated by the Qualifications Committee).

3.6.3 If the candidate has not then passed all sections, no further opportunities to retake the test or any section of it will be permitted, until a period of two years has elapsed since the last attempt at an assessment/examination, at which time a candidate may apply to the Qualifications Committee to repeat the process *ab initio*.

3.6.4 A candidate who fails any section on first attempt and whose documented mitigating circumstances have been accepted by the Examination Board, may take that assessment paper again 'as if for the first time' ie without it counting as an 'attempt'.

3.6.5 A candidate who fails any section on a second (resit) attempt and whose documented mitigating circumstances have been accepted, may take that assessment paper again 'as if for the first time' ie without it counting as an 'attempt.'

3.7 Mitigating Circumstances

3.7.1 If a candidate considers that there were mitigating circumstances that impaired his or her performance in any assessment or that prevented him or her from taking any assessment then details may be submitted to be taken into consideration by the BTT Examination Board. Preliminary consideration by the Provider may take place (with a recommendation indicated to the BTT Examination Board) but decisions are made by the BTT Examination Board.

3.7.2 Where documented mitigating circumstances are accepted by the Examination Board, then a candidate who has failed (or missed) the examination may be permitted to take or resit the examination without penalty (ie 'as if for the first time'). There will be no raising of marks (either for an assessment that has been passed or for an assessment that has been failed) as a result of the acceptance of mitigating circumstances.

3.7.3 In order to satisfy the Examination Board that there were mitigating circumstances, in respect of Regulation 4.7.1 above, a candidate must provide supporting evidence from an independent and relevant source, for example medical certification. The Examination Board may request further evidence from the candidate if it considers the supporting evidence to be insufficient and/or unreliable.

3.7.4 Evidence submitted by a candidate when applying for mitigating circumstances to be considered must reach the Examination Board within seven days of the sitting of the relevant assessment, which will be before the publication of the results of the Test.

3.7.5 Any medical certificate provided must clearly set out the candidate's physical or other condition at the relevant time

3.7.6 If a candidate establishes to the satisfaction of the Examination Board that there are mitigating circumstances which impaired his or her performance in any assessment or which prevented him or her from taking any assessment then, where the requirement was for the candidate to retake all sections, the Examination Board may require the candidate to resit only those assessments that they have failed or not taken and not require the candidate to resit those assessments which they have passed.

3.8 Assessment of candidates with disabilities

1 If a candidate is unable, due to a permanent or long term disability, to be taught and/or assessed by normal means, then the Provider should negotiate and agree to 'reasonable adjustment' ie additional support or a varied method of assessment as appropriate. This should be arranged before enrolment.

2 The need to ensure that Test objectives are met and that the candidate should be assessed in a manner which is fair both to them and the other candidates (neither advantaged nor disadvantaged) must be borne in mind.

3 It is the candidate's responsibility to ensure that the Provider is made aware of the disability and written evidence (normally medical) must be provided. Advice should be sought from relevant medical agencies if necessary.

(See section C4 for further information/guidance on mitigating circumstances).

3.9 Examination results will be communicated to candidates in writing by the BSB, following receipt of confirmed results (following the Examination Board) and candidate details from the Provider.

B4 Reviews of assessment decisions

See section C4 for advice and guidance on applications and admissions

4.1 Grounds for review of Examination Board Decisions

Requests for Review of Examination Board decisions may only be made on one or more of the following grounds:

- a. that the Examination Board, in reaching a decision not to recommend that the Education and Training Committee should certify that a candidate has passed the Test, has acted ultra vires
- b. that the Examination Board erred in the application or non-application of its powers under Schedule 13 of the Bar Training Regulations
- c. that the Examination Board in the exercise of any discretion reached a conclusion which on the facts no reasonable tribunal could have reached
- d. that information has been received by the Review Board which, if it had been available to the Examination Board at the time when it reached its decision, would or might have caused the Examination Board to reach a different decision.
- e. that a candidate's performance in an assessment was affected by ill-health or another factor, amounting to mitigating circumstances, which they were unable to disclose at the appropriate time, or which they had good reason not to disclose. Written evidence or certification of such mitigating circumstances and the reasons why they were not disclosed at the appropriate time must be provided to support such claims (see section C3, Mitigating circumstances).
- f. that an administrative error seriously influenced the outcome of the assessment concerned

- g. that relevant BSB regulations were not followed in relation to the content of the assessment, the way it was conducted, or its results
- h. that the procedures followed by those responsible for the assessment were not in accordance with the principles of natural justice

4.2 Stage 1: Initial Review

4.2.1 Where a candidate wishes to request a review of a single assessment or of the overall result on the BTT as a whole:

- a. The candidate shall first attempt to resolve the issue with the BTT Provider through the seeking and obtaining of feedback on performance. This is a precondition of formal review.
- b. Within two weeks of the publication of the assessment or Test results, the candidate shall raise the matter in writing with the BTT Director at the Provider of the BTT assessment, outlining the grounds upon which they would rely in a request to the BSB for review, and setting out the remedy they would seek.
- c. The Director shall investigate the matter, in order to form an objective assessment of the case.
- d. If the request for review is not based on the grounds in paragraph 4.1 above, the Director shall inform the candidate that no further action can be taken.
- e. After considering the case and any supporting evidence provided by the candidate, the BTT Director shall advise the candidate whether in his/her opinion the request for Review falls within the jurisdiction of the BPTC subcommittee and if so, shall advise the candidate to submit a formal request for Review to the BSB for consideration by the next meeting of the BPTC subcommittee.
- f. If, after the best endeavours of the BTT Director, the candidate is not satisfied with the advice provided by the BTT Director, he or she may submit a Request for Review, with supporting evidence to the BPTC Subcommittee. A recommendation from the BTT Director may accompany the Request.

4.3 Stage 2: Submission of Requests for Review to the BPTC/BTT Subcommittee

A candidate may submit a written Request for Review of an individual assessment or of performance on the BTT as a whole to the BPTC subcommittee as follows:

- a. the candidate must make a case in writing and provide all the relevant evidence for the subcommittee to consider.
- b. Full documentation must be provided by the candidate together with the application form for review. This must clearly set out the grounds for review in accordance with 4.1 above, and also specify what remedy is sought.
- c. If the review is not based on the grounds in paragraph 4.1 above, the Chair of the BPTC subcommittee shall inform the candidate that no further action can be taken.
- d. If the Chair considers that the application falls within the grounds specified in para 4.1 above, the application shall be put before the next meeting of the BPTC subcommittee.

- e. The BPTC subcommittee shall consider the grades achieved and background circumstances, in order to form an objective assessment of the case
- f. After considering the case and any supporting evidence provided, the BPTC subcommittee shall:
 - in the case of a Request for a Review of an individual assessment (or assessments), either
 - a. uphold the decision of the Examination Board and confirm the original mark or
 - b. appoint a further examiner to reassess the work or
 - c. direct the Examination Board to allow a further resit without penalty (ie as if for the first time)
 - in the case of request for review of performance on the BTT as a whole, either
 - a. determine that there is a *prima facie* case for Review and refer the request to the Review Board or
 - b. determine that there is no *prima facie* case for Review and confirm the original result

The candidate will be informed of the subcommittee's decision and the remedy, if any, to be granted.

- g. Where the subcommittee is satisfied that the documentation and the evidence submitted (including the appropriate form setting out the ground(s) for review and the reasons in support of those grounds) constitute a *prima facie* case for Review, it shall refer the Request for Review together with all documentation and evidence submitted in support of it to the BTT Review Board (see stage 3 below). The chair of the subcommittee shall notify the candidate that this has been done.

4.4 Stage 3: Review by the BTT Review Board

4.4.1 The BTT Review Board

The Chair of the Education & Training Committee shall appoint the BTT Review Board which shall be constituted of:

- a) a Chair; and
- b) four other members nominated by the Chair of the BPTC Subcommittee

No member of the BTT Examination Board and no member of the BPTC Subcommittee or Education and Training Committee may be appointed to membership of the Review Board.

A member of the Examination Board appointed by the Chair of the Examination Board shall assist the Review Board with general information concerning the Test and (if so requested) by attending meetings of the Review Board. This may be the Director of the BTT at the Provider. The person so appointed shall not discuss or vote on individual cases.

4.4.2 The Review

1 In considering a Request for Review referred to it by the BPTC subcommittee, the Review Board shall have before it the following documents:

- a. copies of the minutes of all relevant meetings of the Examination Board; and
- b. all documentation sent to the Examination Board and/or Qualifications Committee by the applicant pursuant to Regulation B3.7 (Mitigating Circumstances); and

- c. any other written representations submitted by the candidate to, or for the attention of, the Examination Board or the Review Board
- 2 Written representations by third parties will be put before and considered by the Review Board but only in so far as they relate to exceptional circumstances (as defined in Regulation 3.7 above).
 - 3 The Review Board shall be free to make its own decisions as appropriate in the circumstances of each application for review.
 - 4 The Review Board shall not consider representations and other documentation that were not put before the Examination Board or the BPTC subcommittee unless it is satisfied that there is a reasonable explanation for these matters not having been put before the Examination Board or the BPTC subcommittee.
 - 5 The Review Board shall not receive oral representations.
 - 6 The Review Board shall not:
 - a. re-appraise the academic judgment of any Examiner
 - b. re-assess the candidate
 - c. organise or undertake the remarking of any Test paper or advocacy video/DVD of the candidate
- 4.4.3 The decision of the BTT Review Board
- 1 The Review Board may:
 - a. uphold the decision of the Examination Board and confirm the result originally awarded or
 - b. remit the case to the Examination Board with a direction to permit the candidate to retake one or more specified assessment(s) 'as if for the first time' (ie with no penalty in terms of the number of attempts allowable) or
 - 2 The decision of the Review Board shall be communicated to the candidate, with reference to the evidence considered. The Review Board shall provide reasons for its decision and shall also inform the Examination Board of the decision, within four months of the date of submission of the referral of the Request for Review by the BPTC subcommittee to the Review Board.

The decision of the BTT Review Board is final.

B5 Academic Offences and non-payment of fees

See section C5 for advice and guidance on applications and admissions

5.1 Cheating and misconduct in examinations

5.1.1 The conduct of candidates in the assessment room is subject to the control and direction of the invigilators who may require that a candidate leave the room if, in the opinion of the invigilators, the candidate's conduct is such as to cause disturbance to other candidates or to affect the proper running of the examination.

5.1.2 Any candidate who:

- during an assessment uses or has with him or her any book, manuscripts or materials, including types of electronic equipment, not approved by the Examination Board for use in the examination; or
- copies from the paper of another, or permits his or her own paper to be copied, or receives aid from, or gives assistance to, any other candidate during the examination, or attempts any of the foregoing; or
- removes from the assessment room any answer book or paper, used or unused; or
- commits any other kind of conduct whatsoever in relation to an assessment, which the Examination Board considers to be an act of misconduct; or
- is required to leave the assessment room by the invigilators

will be liable to be struck off the list of candidates and disqualified from the Test, or be subject to a lesser penalty, as deemed appropriate by the Qualifications Committee, following a recommendation of the Examination Board, such recommendation to be communicated to the candidate forthwith.

5.2 Notification of results

5.2.1 The Bar Standards Board may, pending investigation by the Examination Board, withhold publication in any pass list of the name of any candidate suspected of having infringed any of the preceding paragraphs of this Regulation.

5.2.2 Results may also be withheld due to non payment of fees to a Provider and/or the BSB.

5.2.3 A candidate whose name is struck off the list in accordance with Regulation above, will not be certified as having passed the Test and will be reported to their Inn of Court, if a member. If a candidate is not yet a member of an Inn, each Inn will be advised by the BSB of the names of persons who have in this way been found guilty of cheating or misconduct in the BTT, or non-payment of fees. Such a candidate will not be permitted to attempt any further assessment without leave of the Qualifications Committee.

B6 Regulations for approval, monitoring and review

[See section C6 for advice and guidance on approval, monitoring and review]

6.1 Regulations for the approval of delivery of the BTT

6.1.1 Approval of new BTT Provider(s)

All new Training Providers and Assessment Providers must be approved by the Bar Standards Board.

6.1.2 Changes to approved training and assessment

Changes to existing arrangements are also subject to approval, the level of scrutiny being dependent on the amount and nature of the change. The level of scrutiny by the BSB will depend on the nature of the new proposal and/or additions or changes to the way the BTT is operated.

6.1.3 Requirements for accreditation

A proposal for accreditation will only be accepted by the BSB if it conforms to all BSB regulations and procedures.

6.1.4 Time limits for approval

Provision of training and/or assessment will normally be accredited for three years in the first instance, after which review and/or reaccreditation must take place. Continued approval will always be subject to satisfactory monitoring of the Test. A shorter period of approval or limit to the number of sittings may be imposed if concerns are identified.

6.1.5 Conditional approval

Approval may be subject to certain conditions being met. All conditions must be fulfilled, and confirmed by the BSB as having been fulfilled satisfactorily before delivery of the Test or training can commence.

6.1.6 Infringement of conditions and 'triggered' visits

Where conditions have not been met, or where there is infringement of the conditions or specification (eg unacceptable operation of Examination Boards), then it is possible that an additional procedure, such as a special visit, may take place as necessary. Costs of such visits will be met by the Provider.

6.1.7 Appeals against accreditation decisions

In the event of a proposal not being approved by the BSB, further discussion should take place between the potential Provider that has made the appeal, and the Chair of the BSB, the Chair of the Education & Training Committee and members of the accreditation panel. The decision of the BSB will be final.

6.1.8 Withdrawal of approval/closure

Withdrawal of approval for delivery of the BTT may occur if there is evidence that it no longer meets minimum standards required or is no longer viable (for example if it no longer forms part of the strategic or business plan of the Provider). Withdrawal/termination of provision of the BTT may also be instigated by a Provider that decides to cease delivery for similar reasons. In no case will approval be withdrawn without discussion with the Provider and those concerned. Where delivery of the BTT ends, then care must be taken of any candidates part way through the process, so they can find alternative means to complete the BTT.

6.1.9 Information requirements for accreditation

Documentation must be provided according to BSB requirements (see section C2).

6.1.10 Delivery on additional sites or in partnership with other institutions

Delivery on alternative site(s) or through collaborative partnerships will not normally be permitted.

6.2 **Regulations for the monitoring and review of delivery of the BTT**

6.2.1 Internal Monitoring

The assessment processes and advocacy and other support mechanisms must be subject to internal monitoring on an annual basis. For guidance, see C6.

6.2.2 Monitoring/review by the BSB

In addition to the internal annual monitoring process, the BSB reserves the right to make the BTT subject to monitoring/review by the BSB. For guidance, see C6.

Part C Advice, Guidance and Quality Assurance Procedures

C1 General

Advice and guidance on the applications processes (and consideration of exemptions) is available to potential candidates through the Qualifications section of the Bar Standards Board.

Advice and guidance on obtaining results and other issues related to the examination process are available from the Education section of the BSB.

Advice and guidance on procedures for sitting the test (and any associated course) is available from the Provider of the BTT. Support and counselling concerning the BTT will also be made available by the BTT provider, including advice on pre-assessment preparation and training. By means of careful planning, the skills and knowledge needed to achieve each individual's goals in his/her professional development should be identified and addressed. Careful consideration and planning can also help enable transferring qualified lawyers to determine the most relevant and cost-effective methods of preparing themselves for the BTT. For further advice/guidance the BTT Provider should be consulted.

Advice and guidance on Inn membership is available from the Inns of Court.

If your jurisdiction or qualification is not recognised, contact your home bar or law society

Timetable of events/activities for BTT candidates

<i>Approximately 6 months before the next scheduling of the BTT</i>	<i>Read and become familiar with all the guidance and specifications available, including this Handbook</i>
<i>Approximately 6 months before the next scheduling of the BTT</i>	<i>Investigate Inn membership, procedures for Qualifying Sessions, Call to the Bar and pupil advocacy courses</i>
<i>At least 4 months before the next scheduling of the BTT</i>	Submit formal application to the Qualifications Committee
<i>Approximately 4 months before the next scheduling of the BTT</i>	Contact BTT Provider to notify of intention to sit
<i>Approximately 2-4 months before the next scheduling of the BTT</i>	Receive notification of exemptions permitted by the Qualifications Committee
<i>At least 2 months before the next scheduling of the BTT</i>	Register for the BTT and Advocacy Course (if required). Notify any special requirements, adjustments
<i>Before the BTT is sat</i>	Attend the compulsory Advocacy Course
<i>Dates for Test</i>	Take Test sections as required. Dates for Centralised examinations are set 3-4 years in advance and other activities will coincide with these periods (Mid April and late August)
<i>Within one-two months after the Test</i>	Meeting of the Central Examinations Board followed by the BTT Examination Board
<i>Within three months after the Test</i>	Notification of Results by BSB Education Section
<i>Following receipt of results</i>	If successful, and not yet a member of an Inn, apply for Inn Membership. (NB this may take up to two months; a formal declaration is required; Call forms must be counter signed by a Bencher of the relevant Inn)
<i>Within 2-3 months of approval of Inn membership</i>	Complete any required Inns Qualifying sessions (these must be completed before Call to the Bar)
<i>Approximately 3-6 months after</i>	Attend Call Ceremony, or apply to be called <i>in</i>

<i>approval of Inn membership and completion of Qualifying Sessions</i>	<i>absentia</i> (NB this may take up to 2-3 further months, depending on dates of Call ceremonies which take place on a limited number of set dates each year)
<i>Following Call to the Bar</i>	Start pupillage (The non-practising period of pupillage can be undertaken prior to Call. Reduction in pupillage may also apply).
<i>Following Call to the Bar</i>	If required, complete and pass the Inn's assessed advocacy course during the non-practising period of pupillage (NB in some cases, where Inn membership has been approved but Call has yet to take place, it may be possible to attend the course before Call)
<i>Following successful completion of the non-practising period of pupillage (or other requirement)</i>	Issuing of Provisional Qualification Certificate (NB some exemptions from Pupillage requirements may be possible, and should be applied for to the Qualifications Committee at the same time as the application to do the BTT)
<i>Following successful completion of second 6 months pupillage</i>	Issuing of Full Qualification Certificate for the Bar of England and Wales

C2 Guidance on Admission Regulations

Application and entry Requirements

Procedures to be followed by qualified foreign lawyers, Legal academics, European lawyers and solicitors who want to transfer to practice at the Bar vary slightly. Information is provided on the BSB website at: <http://www.barstandardsboard.org.uk/qualifying-as-a-barrister/transferring-lawyers/>, with details of criteria for applications (and the relevant forms) provided at: http://www.barstandardsboard.org.uk/media/24446/panel_1_-_transferring_qualified_lawyers_guidelines.doc⁴

Applications are dealt with by the Qualifications Committee of the BSB. The Committee will decide whether to grant exemptions from the standard training requirements and whether these are conditional on passing some sections of the BTT. Prospective candidates are advised to consult the website and/or contact the Qualifications department at the BSB.

Once the Qualifications Committee has approved an application and specified which sections/papers of the BTT must be taken, then the candidate should contact the/an approved BTT Provider for further information and guidance on the examination timetable and fees that are payable, according to the number of assessments to be taken (see Appendix B and Appendix C).

Contact details of the relevant departments at the BSB are provided in Appendix E.

Membership of an Inn of Court and Inns' Qualifying Sessions

Inn Membership is necessary once the BTT has been taken and passed, but before candidates can be Called to the Bar. Candidates may choose to join an Inn before taking the BTT. Applications must be made direct to an Inn of Court, in good time before the Call ceremony itself, and sufficiently early to allow candidates to complete, if required, six Qualifying Sessions prior to Call. Call Ceremonies take place at certain times during the year, but it is possible to be called *in absentia* in exceptional circumstances. If a candidate is not a member of an Inn of Court at the

⁴ We could include this as an appendix but it is 31 pages.

time of taking the BTT then time must be allowed for an application for membership of an Inn of Court to be made and processed before the next Call ceremony following the successful completion of the BTT, as well as for the completion of any required Qualifying Sessions. Admission to an Inn of Court normally takes approximately two months to process. Membership and Call declarations must be completed and difficulties may sometimes arise with these, for example if a candidate has been convicted of certain criminal offence. In addition applicants must be supported by a Bencher of an Inn.

It is normally required for six Inns Qualifying Sessions to be undertaken, prior to Call to the Bar. If required Qualifying Sessions are not completed within the specified time period, candidates will not be eligible for Call to the Bar.

It should be noted that candidates may also be required to attend and pass an Inns' assessed advocacy course during the non-practising period of pupillage.

It is advisable to make detailed enquiries with the Inns regarding the schedule for Inn membership, Qualifying Sessions, Call to the Bar and pupils' assessed advocacy courses before undertaking the BTT.

Details of the Inns of Court are provided in Appendix E.

English Language

Fluency and proficiency in the English Language are essential because judges, other advocates, witnesses, juries and the public must be able readily to understand the advocate. All applicants must demonstrate that their oral and written English language ability is fluent, and readily comprehensible to native English speakers, including the

- clarity
- spelling
- grammatical accuracy and
- oral intelligibility to others (including judges, juries, witnesses, other advocates, clients, instructing solicitors and others with whom communication is required in the course of practice)

that are necessary for effective performance of their professional functions as members of the Bar of England and Wales by those who are drafting legal documents, and/or advising clients, and /or communicating on their behalf to others, whether in writing or orally.

Overseas candidates are also referred to the UK Border agency website:

<http://www.ukba.homeoffice.gov.uk/visas-immigration/studying/adult-students/can-you-apply/english-language/>

Note that the Inns of Court may impose entry requirements in addition to those requested by the BSB.

The Bar Course Aptitude Test (BCAT)

The BSB is seeking to introduce an Aptitude Test on which a minimum threshold must be met by candidates for the Bar Professional Training Course. This is currently subject to approval by the Legal Services Board. If and when the BCAT is introduced as a formal requirement for entry to the Bar Professional Training Course, it will not be required of candidates for the BTT. Further information will be provided when available.

C3 Guidance on Assessment Regulations

Overview

In the event of there being more than one Provider appointed, then the same arrangements will be in place at each Provider. It may be possible for some assessments (for example the Centralised Assessments) to be taken at locations other than the Provider(s), for example overseas, subject to the contractual arrangements, sufficient notification and operational matters to be addressed.

Mitigating Circumstances

Candidates must provide details of any special mitigating circumstances which may affect their work (see Regulations section B4.7). These must be communicated as soon as possible and normally in advance of the date of the examination, or due date for coursework. Special circumstances may not subsequently be invoked as 'insurance claims' following poor performance, nor as excuses for academic offences. Long standing conditions and disabilities are dealt with separately (see B4.8).

In considering claims for mitigating circumstances, the following will be taken into consideration by the BTT Examination Board:

- whether the circumstances were outside the candidate's control (ie not of their own choosing)
- how significant the effect of that circumstance would be
- how relevant the circumstances were to the assessment, for example proximity in time, which must be carefully recorded and considered
- whether independent and reliable evidence is provided about the circumstance. Medical certification of a condition affecting the candidate would normally be accepted.

Examples of circumstances that would normally justify special consideration include:

- serious personal injury, such as a broken limb, or a medical condition requiring hospital attention or one with an incapacitating effect
- an acute illness affecting the time available, so that a reasonable person would have been unable to carry out the assessment task as required
- being the victim of a serious crime, such as robbery, burglary or a violent assault during the period immediately preceding the assessment
- the serious illness or death of a close relative: such as a parent, child, sibling, spouse, partner, grandparent (or other in appropriate cases)
- unforeseen and unavoidable and imposed work pressures serious enough to interfere with the candidate's study or ability to meet an assessment deadline or sit an examination
- unforeseen and unavoidable serious difficulties with caring arrangements
- transport difficulties of an unpredictable and uncontrollable nature, where alternative arrangements could not be made (with independent evidence)

6 Examples of circumstances that would not normally be acceptable include:

- the illness of a distant relative
- financial problems or difficulties with housing
- inadequate arrangements for baby-sitters, child-minders or other domestic or work situations
- foreseeable transport difficulties, road works or private transport break downs
- computer problems such as disc corruption, photocopying or printing problems
- problems with handing in work by the given deadline
- any claim not supported by reliable evidence (eg a letter from a 'flatmate')
- confusion over time, date or location of the examination on the part of the candidate when this has been clearly notified, and not posed any problem to other candidates

- cases where medical certificates are retrospective, ie dated/issued after a candidate has completely recovered from the illness claimed
- examination stress

Where documented mitigating circumstances are accepted by the Examination Board, the normal remedy will be to allow the candidate to be granted a further 'first sit'. There will be no adjustment of grades, (increase in marks awarded) or raising from a fail to a pass.

Assessment of candidates with disabilities

Disabled candidates may be permitted extra facilities, particularly in examinations – for example extra time (eg candidates with dyslexia), technological aids (dictaphone, computer, larger fonts etc), breaks in examinations (physically disabled candidates, impaired manual dexterity), an amanuensis or scribe (visually impaired candidates, or unable to write eg limb disability), or a reader (for visually impaired). In some cases it may be necessary for assessments to be adapted or modified in order for a disabled candidate to be assessed in an equivalent way to candidates without disabilities (e.g. alternative to presentation for speech impairment). [NB some of the above may also apply to short term disabilities, eg broken limb].

All requests for reasonable adjustments to be made in terms of the above must be made formally and in writing to the BTT Provider at the time of enrolment for the Examination.

Results will be communicated to candidates in hard copy letter by the BSB, following receipt of results and candidate details from the Provider. Results may be issued by email in exceptional circumstances only, and only to the email address as originally registered and subsequently checked by the Provider.

C4 Guidance on Review

The BSB will deal openly and fairly with candidates who wish to apply Request a Review of an assessment decision of an individual section or the BTT as a whole. These can only be considered if they are made by the candidate who is directly affected. A time limit is set and will be strictly adhered to unless a sound explanation is given as to why the Request for review could not have been made earlier. In summary:

The review process at subcommittee stage may:

- uphold the decision of the Examination Board and confirm the original mark
- appoint a further examiner to reassess the work
- direct the Examination Board to allow a further resit without penalty
- where the matter concerns performance on the whole course, determine whether or not there is a *prima facie* case to refer the matter to the final Review Board

The Review Board may:

- confirm the original result or
- remit the case back to the Examination Board with a direction for one or more resits to be made available without penalty ('as if for the first time')

Marks and grades will not be reduced as a result of a review.

The BSB will review the number, nature and outcomes of applications for review raised and dealt with each year, in order to monitor and evaluate the effectiveness of the procedures.

Seeking Feedback

A candidate who wishes to discuss an assessment grade should do so with the BTT Director for the BTT at the Provider. This may well dispel the issue, for example by means of feedback to the candidate as to the reason for the grade awarded. This should be done as soon as possible after the grading decision has been made known.

Unacceptable reasons for review

- a. The BSB will not consider requests for review that result from a candidate failing to follow the published policies and procedures.
- b. The BSB will not consider requests for review based solely on disagreement with the academic judgment of the internal or external examiners who made the assessment. The nature of assessments and all grades awarded are subject to moderation by internal and external examiners and are also confirmed by a Board of Examiners.
- c. The BSB will not consider Requests for Review that are founded on the candidate's own shortcomings, such as the ability to meet the time and place of the examination.

If a *prima facie* case is not made for a full review, for example if the application for review is not based on one or more of the grounds specified in B4.1 above or is simply a matter of disagreement with the academic judgment of the examiners, then the Request will not proceed to be considered by the BTT Review Board. The Review Board will only consider cases where a Review is requested following the candidate's results for the Test as a whole. Requests for review related to individual assessments will be dealt with by the BPTC subcommittee.

C5 Guidance on Academic Offences

A candidate commits an academic offence if it is demonstrated that (on a balance of probabilities) he or she has used unfair means in order to obtain an advantage in carrying out an assessment or other academic work through cheating, plagiarism or fabrication of information. Academic offences will be reported to the candidate's Inn and may result in termination of enrolment for the BTT, termination of membership of the Inn, and/or refusal to call. Examples of offences include cheating and plagiarism.

Cheating

Cheating in an examination or test is an activity that contributes to a summative grade by:

- copying or attempting to copy from work of other candidates
- bringing unauthorised materials into the examination
- referring to unauthorised materials during the examination
- obtaining, or attempting to obtain, help from others in the examination
- obtaining help in an examination by use of a mobile phone, text, pager or other device
- any form of impersonation
- providing, or attempting to provide, help in an examination
- any arrangement to break, avoid or subvert the regulations
- fabrication of data in any form of assessment
- plagiarism from published or unpublished sources, including collusion (see next section)
- attempting to obtain examination papers or questions by computer hacking or other dishonest means

Plagiarism

Plagiarism is defined as 'copying or attempting to copy from any other source (published or unpublished, and including the work of a fellow candidate or another person) in an unauthorised manner and attempting to present that work as if it were the candidate's own in order to obtain an

unfair advantage'. Work presented for assessment must be the candidate's own and while quotations from recognised sources are usually acceptable, this must be clearly acknowledged and a reference given for the source. Collusion, whereby a second candidate or person knowingly supplies work with consent is also defined as plagiarism.

It is recognised that acts of cheating, plagiarism and fabrication may vary in the degree of seriousness, for example, ranging from the reproduction of small amounts of texts, not properly referenced and without attribution to the reproduction of large amounts of texts, use of another candidate's work with or without his/her knowledge or a serious intent to deceive or fraudulently obtain the qualification. In all cases, failure will result, and membership of an Inn will not be possible (or expulsion may occur where membership has already been obtained).

If an academic offence is suspected in an examination (eg cheating by using unauthorised books or notes in an examination), then details and evidence must be recorded and unless a satisfactory response is received, the relevant procedures should be implemented. A candidate suspected of cheating or plagiarism will be called to a formal meeting with the BTT Director. The allegation should be put to the candidate who should be given the chance to answer the allegations. The BSB must also be notified and a decision made whether the candidate shall be permitted to continue with the Test and if so on what terms. This will be notified to the candidate and reported to the Board of Examiners. If the offence is admitted, then this should also be reported to the candidate's Inn (if a member) and it may be decided that the candidate should have their enrolment terminated with no further opportunity to reapply.

If the offence is not admitted, then a formal hearing should take place as soon as possible at which the relevant evidence must be considered, and a decision made, on hearing the evidence, whether an academic offence has been committed. If the case is not proved, then work should be assessed in the normal way.

Penalties will take cognisance of the need for honesty and integrity for those aiming to transfer to the Bar of England and Wales and the normal penalty will be a fail grade with no possibility of referral, ie termination of the candidature for the sitting of the BTT and exclusion from any further applications or attempts.

Appeals against Academic Offences may only be made on the grounds that Mitigating Circumstances, that may have affected the candidate's behaviour, were not taken into account, or that new evidence may be presented that was not previously available. Appeals may not be made on the basis of continued denial of guilt. The appeals process will normally be dealt with according to institutional procedures. The BSB must be notified.

C6 Guidance for Providers on approval, monitoring and review of the BTT

Guidance on accreditation of delivery of the BTT

Accreditation by the BSB of Provider(s) and trainers (and of BTT examinations and assessments) will ensure that: training and assessment are consistent with the BSB's mission and objectives; they meet the BSB's requirements; standards are appropriate to the professional qualification; the documentation is in accordance with requirements; the resources (staffing, library and IT) are satisfactory; and the quality and standards of training and assessment are maintained and will be enhanced where possible.

The BSB may validate only one Provider, by means of a competition and tendering process. It is unlikely that any Provider who is not an approved Provider of the BPTC would be able to make a successful bid.

The process of accreditation will be based on consideration of whether the proposals conform to the current Handbook (regulations and guidance), as evidenced by relevant documentation,

which must include: the rationale, aims and objectives for delivery of training and/or assessment; a review or critical appraisal of any former, existing or related provision; scrutiny of available documentation, and a visit by a panel to consider the proposal, after which a report will be produced. Costs of accreditation visits will be met by the applicant Provider.

Documentation must be provided according to BSB requirements. A self evaluation or review of former or related provision will need to be produced specially, as well as the rationale as to why a licence should be granted to deliver the BTT and/or accreditation given to any training provided. In summary, the formal submission must demonstrate how the content, delivery and regulations of the BTT as specified in this Handbook, are to be adhered to.

The process is summarised as follows:

<i>Approximately 4-6 months before the intended commencement of the delivery of the BTT and supporting Advocacy course (eg summer 2012 for Jan 2013 start)</i>	Expressions of interest to be submitted to the Education Department of the BSB
<i>Approximately 4-6 months before the BSB accreditation event</i>	Liaison to take place between the BSB Education Department and the prospective Provider to determine schedule of events and date by which documentation is due
<i>Approximately 2-4 months before the accreditation event</i>	The Education Department will appoint and contact accreditation panel members, who will be appropriately briefed. Arrangements for venue, refreshments, accommodation etc will be made.
<i>At least 2 months before the accreditation event</i>	An internal scrutiny (at the Provider) should preferably take place, a report should be produced, with a response from the team as appropriate.
<i>Two weeks before the accreditation event</i>	Sufficient copies of the accreditation documents should be made for all participants of the accreditation event, for circulation with event programme to the panel [NB. If documents are not received 14 days before the event, it will be postponed/cancelled.]
<i>Within one month after the event</i>	Unconfirmed report sent to the panel for agreement
<i>Within two months after the event</i>	Report sent to BTT Director designate for response and checking for factual accuracy
<i>By a set/agreed deadline (normally about two months)</i>	The team provides written response to any conditions/recommendations. The response will be circulated and the panel and comments invited. Approval may be confirmed or a supplementary response (and further visit) sought.
<i>Once conditions are satisfactorily met</i>	Letter of confirmation of approval is sent out together with contract (with confirmed report)
<i>As soon as possible after final approval</i>	Signed contract must be supplied to the Education Department

Guidance on Monitoring and Review

The operation of the BTT (and supporting course) must be subject to internal monitoring on an annual basis. Provider(s) will also be required to allow free access to training and assessment of the BTT for inspection and review purposes by the Bar Standards Board's Education Standards Department, review/visiting panels and External Examiners. The Annual Monitoring process by

Provider(s) must be based on rigorous self-critical analysis of the previous year's performance, to be carried out following the completion of the academic year. Consideration should be given to individual units, as well as the delivery of the BTT as a whole. Pass and progression rates of candidates, and feedback from candidates, employers and other stakeholders should also be taken into account. An Annual Monitoring Report (AMR) must be drawn up, including an action plan to address areas in need of improvement. AMRs must be carefully considered and discussed according to Providers' internal systems in time for submission to the BSB by 30 November of each academic year.

In addition to the internal annual monitoring process, the BSB reserves the right to make the BTT subject to monitoring/review by the BSB. This may take the form of a monitoring visit or a triggered visit where a cause for concern has been identified. Reviews are used to ensure that provision is up to date, fit for purpose and well resourced – and to consider the cumulative effect of the internal annual monitoring process over a period of time. The monitoring process (ie visit) if and when undertaken will be based on the provision of a self-critical analysis, with accompanying documentation, to be considered and discussed at an event with a monitoring panel involving both internal and external assessors and subject specialists. Arrangements will be made in consultation with the BTT Provider.

Appendix A – Bar Training Regulations 2011 [extract]

Part VII - Exemptions from Training Requirements

Part VII is reproduced here for convenience. Candidates are advised to consult the BTRs in full, available at <http://www.barstandardsboard.org.uk/media/1344498/bartrainingregulations-1092011.pdf>

59. The Board may grant exemptions from part or all of:
- (a) the Academic Stage,
 - (b) the Vocational Stage, and/or
 - (c) the Professional Stage,
- of training.
60. In exercising any discretion whether to grant an exemption from part or all of any Stage of training, the Board will determine whether the relevant knowledge and experience of the applicant make it unnecessary for the applicant to undertake such training.
61. An exemption from part or all of any Stage of training may be granted unconditionally or subject to conditions, which may include in an appropriate case:
- (a) a requirement to undertake training in substitution for training prescribed by these Regulations; and/or
 - (b) a condition that the applicant must pass a Bar Transfer Test.
62. Where the Board exempts a person from the Vocational or Professional Stage of training, it may also:
- (a) grant exemption in whole or in part from the requirement to attend Qualifying Sessions; and
 - (b) specify the period within which any requirement to attend Qualifying Sessions must be fulfilled, which may be a period ending after the person concerned has been called to the Bar and in the case of a Specially Qualified Applicant is usually a period of three years during which the Applicant must attend six Qualifying Sessions unless special circumstances apply.

Applications

63. An application for exemption under this Part must be in such form as may be prescribed by the Board and contain or be accompanied by the following:
- (a) details of the applicant's educational and professional qualifications and

experience;

- (b) 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;
- (c) any other representations or evidence on which the applicant wishes to rely in support of the application;
- (d) verified English translations of every document relied on which is not in the English language; and
- (e) the prescribed fee.

64. Before deciding whether to grant any exemption under this Part, the Board may make any further enquiries or require the applicant to provide any further information that it considers relevant.

65. A person whose application for exemption is rejected may request a review of the decision under Part X of these Regulations, provided that the request is made in writing to the Board within one month of the date when notice of the decision was given.

Full Exemption

66. If the Board is satisfied that an applicant falls within Regulation 67, the Board will:

- (a) exempt the applicant from any Stage of training prescribed by these Regulations which the applicant has not fulfilled;
- (b) issue the applicant with a Full Qualification Certificate; and
- (c) authorise the applicant to practise as a barrister upon being admitted to an Inn and called to the Bar under Part IX of these Regulations subject to complying with the Code of Conduct.

67. The following categories of person fall within this Regulation:

- (a) a person who has been granted rights of audience by an Authorised Body and is entitled to exercise those rights in relation to all proceedings in all courts of England and Wales;
- (b) subject to Regulation 68, a person who has been granted rights of audience by an Authorised Body and 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);
- (c) a barrister of Northern Ireland who has successfully completed pupillage in

accordance with the rules of the Bar of Northern Ireland;

(d) subject to Regulation 69, a Qualified European Lawyer.

68. The Board may exceptionally require an applicant who falls within Regulation 67(b) to undertake part or all of the practising six months of pupillage if it considers this necessary having regard in particular to the knowledge, professional experience and intended future practice of the applicant.
69. Subject to Regulations 71 to 75, the Board may require a Qualified European Lawyer to pass a Bar Transfer Test if the Board determines that:
- (a) the matters covered by the education and training of the applicant differ substantially from those covered by the Academic, Vocational and Professional Stages of training; and
 - (b) the knowledge acquired by the applicant in the course of the applicant's professional experience does not fully cover this substantial difference.

Registered European Lawyers

70. The rules governing registration as a Registered European Lawyer are set out in Annexe B to the Code of Conduct.
71. The Board may not require an applicant who is a Registered European Lawyer and who falls within Regulation 73 or 74 to pass a Bar Transfer Test unless it considers that the applicant is unfit to practise as a barrister.
72. In considering whether to require an applicant who falls within Regulation 74 to pass a Bar Transfer Test, the Board must:
- (a) 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
 - (b) assess and verify at an interview the applicant's effective and regular pursuit of professional activities and capacity to continue the activities pursued.
73. To fall within this Regulation an applicant must have:
- (a) for a period of at least three years been a Registered European Lawyer; and
 - (b) 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.

74. To fall within this Regulation an applicant must have:
- (a) for a period of at least three years been a Registered European Lawyer; and
 - (b) for a period of at least three years effectively and regularly pursued in England and Wales professional activities under a Home Professional Title; and
 - (c) 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.
75. For the purpose of these Regulations, 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

76. If the Board is satisfied that an applicant falls within Regulation 77, the Board will:
- (a) exempt the applicant from the Academic Stage and the Vocational Stage and, if the Board thinks fit, from part or all of the Professional Stage of training; and
 - (b) if the applicant is exempted from the whole of the non-practising six months of pupillage, issue the applicant with a Provisional Qualification Certificate.
77. The following categories of person fall within this Regulation:
- (a) a person who has been granted rights of audience by an Authorised Body 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;
 - (b) 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;
 - (c) a teacher of the law of England and Wales of experience and academic distinction.

Temporary Call to the Bar of Qualified Foreign Lawyers

78. A Qualified Foreign Lawyer ("the applicant") who falls within Regulation 77(b) is entitled to be admitted to an Inn and 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 these Regulations if the applicant has:

- (a) obtained from the Board 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;
 - (b) duly completed and signed a Call Declaration in the form set out in Schedule E; and
 - (c) paid the fee prescribed by the Inn.
79. The Board will issue a Temporary Qualification Certificate if the applicant submits to the Board:
- (a) evidence which establishes that the applicant is a Qualified European Lawyer or falls within Regulation 77(b);
 - (b) a Certificate of Good Standing; and
 - (c) 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.
80. Admission to an Inn and call to the Bar under Regulation 78 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 that Regulation and automatically cease to have effect on conclusion of the case or cases specified in the applicant's Temporary Qualification Certificate.

Appendix B Timetable for the current year

2013 First Sitting 2013 (April 2013)

XX February 2013	Deadline for submission of entry form for the April sitting
XX April 2013	Compulsory training weekend for paper XX (Advocacy)
XX April 2013	Compulsory additional training for paper XX (Advocacy)
XX April 2013	Paper 1
XX April 2013	Paper 2
XX April 2013	Paper 3
XX April 2013	Paper 4
XX April 2013	Paper 5
XX April 2013	Paper 6
XX April 2013	Paper 7
XX April 2013	Paper 8
XX April 2013	Paper 9
XX April 2013	Paper 10
XX April 2013	Paper 11 etc

Results will be published on XX June 2013

2013 Second Sitting (August 2013)

XX July 2013	Deadline for submission of entry form for the September sitting
XX Aug 2013	Compulsory training weekend for paper XX (Advocacy)
XX Aug 2013	Compulsory additional training for paper XX (Advocacy)
XX Aug 2013	Paper 1
XX Aug 2013	Paper 2
XX Aug 2013	Paper 3
XX Aug 2013	Paper 4
XX Aug 2013	Paper 5
XX Aug 2013	Paper 6
XX Aug 2013	Paper 7
XX Aug 2013	Paper 8
XX Aug 2013	Paper 9
XX Aug 2013	Paper 10
XX Aug 2013	Paper 11 etc

Results will be published on XX October 2013

Details of the Training course and the precise timings of examinations will be notified one month before the April and August sittings. For either sitting, candidates must submit to the Provider [address/contact person]

- *A completed application form*
- *The appropriate fee for the test and, if applicable, for the advocacy training course*
- *Letter of approval/verification of sections required from the BSB Qualifications Committee*

Applications can only be accepted in hard copy at present. Information about the relevant call dates should be sought from the Inn of which the candidate is a member. Candidates cannot undertake their second six (practising pupillage) until they have been called and issued with a practising certificate.

Appendix C Fees

(to be adjusted according to contract and start date – 2013 or 2014, and in discussion with eventual Provider)

Fees for individual sections/papers (where not all are required to be taken)

Part A

A	Public Law (Constitutional Law, Admin Law, Human Rights)	£150
B	Law of the EU	£150
C	Criminal Law	£150
D	Obligations (Contract, Restitution Tort)	£150
E	Property/Land Law	£150
F	Equity and the Law of Trusts	£150
G	English Legal System	£150

Part B

H	Advocacy	£300
I	Civil Litigation, Evidence & Remedies	£150
J	Criminal Litigation, Evidence & Sentencing	£150
K	Professional Ethics	£150

£1800

Training Course (compulsory for advocacy) £750

All papers/sections £2550 (including advocacy course)

Old system:

Paper 1	Contract and Trusts [currently paper 1a]	£200
Paper 2	Tort and Crime [currently 1b]	£200
Paper 3	Land Law and the English Legal System [currently 2a]	£150
Paper 4	Constitutional and Administrative Law [currently 2b]	£150
Paper 5	EU Law [also 2b]	
Paper 6	Civil and Criminal Procedure [currently paper 3]	£250
Paper 7	Evidence [also paper3]	
Paper 8	Professional Conduct [paper 4]	£250
Paper 9	Advocacy, including skeleton argument [paper 5a] plus Advocacy, examination in chief; cross examination [paper 5b]	£300

£1500

Training Course (compulsory for advocacy) £750

All papers/sections £2250 (including advocacy course)

Appendix D Transferring Qualified Lawyers Panel: Criteria and Guidelines

[Relevant extracts of the current guidance and criteria are included here for information. They will need to be brought in line with any new changes or recommendations that are approved, eg new numbering of sections of the BTT]



CRITERIA AND GUIDELINES

TRANSFERRING QUALIFIED LAWYERS PANEL

These Notes are divided into two sections:

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

The Transferring Qualified Lawyers Panel deals with applications by qualified lawyers, law teachers, and non-graduate mature students for exemptions from the usual requirements for qualification as a Barrister. It also deals with applications for temporary call to the Bar, and for registration as a Registered European Lawyer.

<i>Nature of Application</i>	<i>Brief Summary</i>
Application by Qualified European Lawyers	Applications where the applicant is a Qualified European Lawyer as defined in the BTR
Applications by Qualified Foreign Lawyers	Applications by a Qualified Foreign Lawyer as defined in the BTR
Applications by Law Teachers	Applications by teachers of the law of England and Wales for relaxation of the usual requirements for Call to the Bar and entry into practice
Applications by Qualified Solicitors	Applications by solicitors admitted and enrolled in England & Wales or Northern Ireland for relaxation of the usual requirements for Call to the Bar and entry into practice

Guidance Notes – General Procedure for applications and appeals

1 General

- 1.1 In these Notes, the Bar Training Regulations (September 2011) are referred to as “BTR”.
- 1.2 These Notes set out the criteria and guidelines which the Transferring Qualified Lawyers Panel and/or the Full Committee applies in considering such applications, and should be read carefully and in conjunction with the BTR and the Application Form.
- 1.3 Neither the Transferring Qualified Lawyers Panel nor the Qualifications Committee is empowered to review the BTR.

2 How applications are dealt with

- 2.1 Applications must be made in writing on the appropriate and current Application Form, accompanied by any supporting documentation and cheque for the requisite fee, currently £440 (save for applications by non-graduate mature students where the current fee is £200) made payable to the General Council of the Bar. The application form and details of the Committee’s Fee Waiver Policy are available from the BSB (contact details below) or online (see below). 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.
- 2.2 Applicants who may have particular difficulties in following the standard application procedure or need reasonable adjustments related to a disability may contact the Secretary to the Qualifications Committee to discuss how these needs can be met.
- 2.3 All applications contain a declaration that the applicant has read, understood and complied with these Criteria and Guidelines.
- 2.4 Applications are considered and determined by the Transferring Qualified Lawyers Panel of the Qualifications Committee, which is one of the regulatory committees whose work is overseen by the Bar Standards Board. The Qualifications Committee’s powers to approve the applications made to the Transferring Qualified Lawyers Panel are set out in Part VII of the BTR.
- 2.5 The Qualifications Committee comprises both barristers and lay members. All applications are dealt with in the first instance by the Transferring Qualified Lawyers Panel of the Qualifications Committee, members of which Panel are all members of the full Qualifications Committee. References in these Notes to the

Qualifications Committee should be read as including a reference to the Transferring Qualified Lawyers Panel unless otherwise expressly stated.

- 2.6 All applications are dealt with on paper only.
- 2.7 An applicant must ensure that all supporting evidence is sent with the Application Form, and any failure to do so may result in delays in dealing with the application, or in cases of refusal to provide such evidence, the Qualifications Committee reserves the right to reject such applications. In every case, the Qualifications Committee has the power to 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 rather than the task of the Qualifications Committee to ask for it.
- 2.8 However, 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. In particular, it is usually **not** appropriate to supply examples of work. 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.
- 2.9 The Qualifications Committee will take into account all the circumstances of the particular application and will apply the guidelines set out in these Notes and the general objective of the BTR set out in BTR3A. The Transferring Qualified Lawyers Panel may make a decision on any application or may refer any particular application or part thereof to the full Qualifications Committee for consideration and decision.
- 2.10 All applications will be acknowledged in writing within 10 days of receipt.
- 2.11 The Qualifications Committee Panels normally deals with all applications within 8 weeks of receipt and notifies applicants of its decision within 10 days of a decision. Should it not be possible to deal with an application within this timescale, the applicant will be notified.
- 2.12 The Qualifications Committee will treat all applications and any supporting documentation provided in the strictest confidence.
- 2.13 All enquiries about applications whether proposed or pending should be addressed to the secretary to the Transferring Qualified Lawyers Panel (details below).

3 Reviews and Appeals

- 3.1 Any applicant who is dissatisfied with a decision of the Transferring Qualified Lawyers Panel may request a review of the decision by the full Qualifications Committee.
- 3.2 Any request for a review must be made on the designated application form and accompanied by the relevant application fee within one month of notification of the relevant decision. All requests will be acknowledged in writing within 7 days of receipt.
- 3.3 All reviews are dealt with on paper only.
- 3.4 The Qualifications Committee deals with reviews of decisions of the Transferring Qualified Lawyers Panel as if the application was being dealt with afresh by the Qualifications Committee, applying the guidelines set out in these Notes. The Qualifications Committee shall be entitled to have such regard to the Transferring Qualified Lawyers Panel's decision, and to uphold, vary or take into account such decision, as in its absolute discretion it feels appropriate.
- 3.5 The Qualifications Committee normally deals with all review requests within 10 weeks of receipt and notifies applicants of its determination within 10 days of a decision. Should it not be possible to deal with a review within this timescale, the applicant will be notified.
- 3.6 All enquiries about reviews whether proposed or pending should be addressed to the secretary to the Qualifications Committee (see below).
- 3.7 Where the full Qualifications Committee has determined a review of a decision of the Transferring Qualified Lawyers Panel, there is no procedure under the BTR for an appeal to the Qualifications Committee or the Bar Standards Board from such determination. However, the Qualifications Committee may review its own decisions under BTR 99 but is not obliged to carry out such a further review. Any person dissatisfied with a determination of the full Qualifications Committee is advised to take independent legal or other appropriate advice.
- 3.8 BTR 102 provides that where the BTRs provide for a review by the BSB of a decision, no appeal may be made to the Visitors to the Inns of Court unless such a review has taken place.
- 3.9 BTR 103 provides that subject to BTR 102, a person or organisation who is adversely affected by a decision of the BSB may appeal to the Visitors of the Inns of Court in accordance with the Hearings before the Visitors Rules.

Call to the Bar and Compulsory Pupillage Courses

Please note that the Inns of Court have formal procedures for admission and Call to the Bar which may take significant time to complete. Due to the demand for Inns' compulsory pupillage courses, availability may be limited. You should take this into account when organising your pupillage or practice start date to allow for completion of these procedures and courses. Please visit the Inns' websites.

Online Resources

www.barstandardsboard.org.uk

Inns of Court:

www.lincolnsinn.org.uk

www.middletemple.org.uk

www.graysinn.org.uk

www.innertemple.org.uk

Contact details

Bar Standards Board
289-293 High Holborn London WC1V 7HZ
DX: 240 LDE

Tel: 020 7611 1444

Fax: 020 7831 9217

Chair: Rob Behrens

Secretary to the Qualifications Committee: Joanne Dixon

Secretary to the Transferring Qualified Lawyers Panel: Pauline Smith

Please note that the Chair is unable to enter into correspondence with any applicant and so all correspondence and enquiries should be addressed to the Secretary to the Qualifications Committee or the Secretary to the Transferring Qualified Lawyers Panel (as the case may be).

B. Criteria for applications

1.	Applications by Qualified European Lawyers
Introduction	
1.1	<p>The expression “Qualified European Lawyer” has the meaning ascribed to it in Part XII of the BTR:</p> <p>“Qualified European Lawyer” means a person who is a national of a Relevant State and who either:</p> <p>(a) holds a diploma required in a Relevant State for the practice of a legal profession regulated by that State which diploma satisfies the requirements of Regulation 22(1)(a) of the European Qualification Regulations; or</p> <p>(b) satisfies the requirements of Regulation 22(1)(b) of the European Qualification Regulations.</p>
1.2	<p>The completed application form should be accompanied by any supporting documentation and cheque for the requisite fee currently £440 made payable to the General Council of the Bar. 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.</p>
Rules	
1.3	<p>In order to be eligible to apply to the Qualifications Committee as a European lawyer for exemptions from the prescribed Stages of training, the applicant must be a Qualified European Lawyer. The relevant rules are BTR 59, 60, 61, 62, 66, 67, 68, 69.</p>
3.10 Information and documentation	
1.4	<p>An applicant will be required to provide the following information and documentation:</p> <p>1.4.1 Original or certified copy of the diploma/certificate entitling the applicant to practise in the home jurisdiction</p> <p>1.4.2 Original or certified copy of any other certificates on which the applicant wishes</p>

	to rely
1.4.3	Any evidence on which the applicant relies to demonstrate that the applicant is of good character and repute
1.4.4	Certified English translations of any documents above that are in a language other than English
1.4.5	Particulars of any previous application which the applicant has made under the BTR or where appropriate under the Consolidated Regulations.
3.11 Guidelines	
1.5	A Qualified European Lawyer will normally be required to take all, or part of, the Bar Transfer Test if (a) the matters covered by the education and training of the applicant differ substantially from those covered by the Academic, Vocational and Professional Stages of training; and (b) the knowledge acquired by the applicant in the course of the applicant's professional experience does not fully cover this substantial difference.
1.6	Any applicant who seeks exemption from all or part of the Bar Transfer Test must submit evidence dealing fully with the matters referred to at 1.5(a) and (b) above.
1.7	However, a practising member of the Bar of Ireland who has been in independent practice for the three years immediately preceding his/her application will not normally be required to take any part of the Bar Transfer Test.
1.8	Applicants approved under the BTR are automatically exempt from the requirement to undertake pupillage. However, the applicant may find it beneficial (and applicants are strongly encouraged) to complete some period of pupillage on a voluntary basis, including attendance at the Advocacy and Practice Management courses.
1.9	The Committee will usually reduce to 6 the number of Qualifying Sessions the applicant is required to attend, and will usually specify that these should be attended within 3 years after Call to the Bar.

4	Applications by Qualified Foreign Lawyers																						
Introduction																							
4.1	<p>The expression “Qualified Foreign Lawyer” has the meaning ascribed to it in Part XII of the BTR:</p> <p>“Qualified Foreign Lawyer” means a person who is a member of a legal profession regulated in a jurisdiction outside England and Wales and entitled to practise as such.</p>																						
4.2	<p>The completed application form should be accompanied by any supporting documentation and cheque for the requisite fee currently £440 made payable to the General Council of the Bar. 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.</p>																						
Rules																							
4.3	<p>The relevant rules governing applications to the Qualifications Committee by Qualified Foreign Lawyers for exemptions from the prescribed Stages of training are BTR 59, 60, 61, 62, 76, 77.</p>																						
Details																							
4.4	<p>A Qualified Foreign Lawyer may apply to the Qualifications Committee for exemption from the Academic, Vocational and/or Professional Stages of training. If the Qualified Foreign Lawyer has for a period of at least three years regularly exercised rights of audience in courts which administer law substantially similar to the common law of England and Wales, the Qualifications Committee will grant exemption from the Academic and Vocational Stages, and, if it thinks fit, from part or all of the Professional Stage of training.</p> <p>For the purpose of 4.4 above Qualified Foreign Lawyers refers to - Qualified Lawyers admitted to the Bar of Northern Ireland, a Scottish Advocate or admitted to one of the courts of the following jurisdictions:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Anguilla</td> <td style="width: 50%;">Malawi</td> </tr> <tr> <td>Antigua & Barbuda</td> <td>Malaysia</td> </tr> <tr> <td>Australia</td> <td>Montserrat</td> </tr> <tr> <td>Bahamas</td> <td>Namibia</td> </tr> <tr> <td>Bangladesh</td> <td>New Zealand</td> </tr> <tr> <td>Barbados</td> <td>Nigeria</td> </tr> <tr> <td>Belize</td> <td>Pakistan</td> </tr> <tr> <td>Bermuda</td> <td>Papua New Guinea</td> </tr> <tr> <td>Botswana</td> <td>Singapore</td> </tr> <tr> <td>British Virgin Islands</td> <td>South Africa</td> </tr> <tr> <td>Canada</td> <td>Sri Lanka</td> </tr> </table>	Anguilla	Malawi	Antigua & Barbuda	Malaysia	Australia	Montserrat	Bahamas	Namibia	Bangladesh	New Zealand	Barbados	Nigeria	Belize	Pakistan	Bermuda	Papua New Guinea	Botswana	Singapore	British Virgin Islands	South Africa	Canada	Sri Lanka
Anguilla	Malawi																						
Antigua & Barbuda	Malaysia																						
Australia	Montserrat																						
Bahamas	Namibia																						
Bangladesh	New Zealand																						
Barbados	Nigeria																						
Belize	Pakistan																						
Bermuda	Papua New Guinea																						
Botswana	Singapore																						
British Virgin Islands	South Africa																						
Canada	Sri Lanka																						

Cayman Islands	St Kitts & Nevis	
Dominica	St Lucia	
Ghana	St Vincent & the Grenadines	
Grenada	Sri Lanka	
Guyana	Trinidad & Tobago	
Hong Kong	Turks & Caicos	
India	United States of America	
Isle of Man	Zambia	
Israel	Zimbabwe	
Jamaica		
All other Qualified Foreign Lawyers would normally be subject to the full Bar Transfer Test and 12 months pupillage.		
Required evidence and information		
4.5 The application must include: <ul style="list-style-type: none"> 4.5.1. Particulars of the educational and professional qualifications relied on; 4.5.2. The originals or authenticated copies of the documents relied on to prove those qualifications; 4.5.3. Evidence to establish that the applicant is of good character and repute; 4.5.4. A certificate of no more than 3 months old at the date of receipt of the application by the Qualifications Committee attesting that the applicant has not been prohibited from practising in the jurisdiction in which the applicant is qualified on the ground of commission of a criminal offence or professional misconduct and is not currently suspended from practising on such grounds. 		
4.6 The following certificates will be accepted as evidence of the relevant matters:		
<i>Applicant</i>	<i>As to Qualification</i>	<i>As to Good Standing</i>
Northern Ireland	Certificate of Call to the Bar, stating the date when practice commenced	Certificate of the Attorney-General of Northern Ireland that the applicant is a fit and proper person to be Called to the Bar
Scottish Advocate	Certificate of the Dean of the Faculty of Advocates, stating that the applicant is a member of the Faculty and the date when practice commenced	Certificate of the Dean of the Faculty of Advocates that the applicant is a fit and proper person to be Called to the Bar

<p>Other Qualified Foreign Lawyer</p>	<p>Certificate of the Senior Judge, Attorney General or Senior Law Officer of the Superior Court in which the applicant has practised showing that:</p> <ul style="list-style-type: none"> - For a period of not less than 3 years the applicant has regularly exercised rights of audience in that court (identifying the period(s)) - The applicant is a fit and proper person to be Called to the Bar <p>Degree certificate, and admission certificate or certificates</p>
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Guidelines	
Bar Transfer Test	
4.7	A barrister of the Northern Ireland Bar who has been practising as such for not less than 3 years immediately before the date of the application is wholly exempt from the Academic and Vocational stages of training.
4.8	The Panel will normally exempt all other applicants from the Academic and Vocational stages of training, but this will usually be conditional upon passing the Bar Transfer Test or some part or parts of it. This decision depends on the particular circumstances of each case.
4.9	An applicant may apply for full or partial exemption from the Bar Transfer Test. An applicant who does so may include in the application representations or evidence to support the application.
4.10	The relevant sections of the Bar Transfer Test should be completed within 2 years from receipt of decision letter. Applicants who fail to meet this deadline will be required to submit an application for an extension of time to the Panel in good time, with evidence as to why an extension of time is required.
Pupillage	
4.11	A Northern Ireland barrister who has completed pupillage (devilling) in Northern Ireland is exempt from further pupillage in England and Wales.
4.12	Any other applicant is required to undertake the Professional Stage of training, but the Qualifications Committee may exempt the applicant from all or part of the requirements of pupillage if satisfied that those requirements are inappropriate.
4.13	Applicants who have been appointed Senior Counsel (or equivalent) are not automatically exempt from a requirement to undertake pupillage under Part V of the Regulations and will in most cases be required to undertake some period of practising pupillage. The Qualifications Committee may, however, grant a complete exemption from the pupillage requirements where it is clear from the particular circumstances of a given case that a pupillage would be unnecessary. Relevant considerations in this respect may include, in addition to the applicant's seniority, the nature of the applicant's practice, the experience and familiarity of the applicant with practise in England and Wales and any steps which the applicant proposes to undertake in place of pupillage.

3.12 **Qualifying Sessions**

4.14 The Committee will usually reduce to 6 the number of Qualifying Sessions the applicant is required to attend, and will usually specify that these should be attended within 3 years after Call to the Bar.*

* NB this may change to a requirement to complete prior to Call (if approved)

5	Applications for admission to the Bar as a Law Teacher
Introduction	
5.1	The completed application form should be accompanied by any supporting documentation and cheque for the requisite fee currently £440 made payable to the General Council of the Bar. 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.
Rules	
5.2	The relevant rules governing applications to the Qualifications Committee by Law Teachers for exemptions from the prescribed Stages of training are BTR 59, 60, 61, 62, 76, 77.
Details and Guidelines	
5.3	A teacher of the law of England and Wales of may apply to the Qualifications Committee for exemption from the Academic, Vocational and/or Professional Stages of training.
5.4	If the applicant satisfies the Qualifications Committee that the applicant is of sufficient experience and academic distinction, the Qualifications Committee will grant exemption from the Academic and Vocational stages of training and, if it thinks fit, from part or all of the Professional Stage of training.
5.5	The following are particularly relevant matters for applications, and must be addressed in the application form: <ul style="list-style-type: none"> 5.5.1. the academic achievements of the applicant; 5.5.2. the seniority standing and distinction of the applicant as a teacher of law; 5.5.3. the nature and extent of the applicant’s contacts with barristers in independent practice; 5.5.4. the intentions of the applicant in relation to practice at the Bar and any arrangements made for the purpose of fulfilling those intentions; 5.5.5. the benefits to the Bar which may be expected to flow from the applicant’s Call to the Bar.
5.6	If the applicant is exempted from the Academic and Vocational stages of training, this may be subject to passing some part of the Bar Transfer Test. The applicant likely to be

	required to undertake a period of pupillage, usually 3 months non-practising and 3 months practising.
5.7	The Panel may exceptionally consider allowing an applicant to divide his or her pupillage into blocks of non-continuous periods, for example to accommodate university teaching obligations.
5.8	However, the Committee generally considers that excessive splitting of a pupillage is undesirable: any proposal for dividing pupillage into blocks should be specific, justified, and have the approval of the prospective chambers or organisation where the pupillage is to be undertaken.
5.9	The Committee will usually reduce to 6 the number of Qualifying Sessions the applicant is required to attend, and will usually specify that these should be attended within 3 years after Call to the Bar.
Information required	
5.10	The following should be attached to the application form: <ul style="list-style-type: none"> 5.10.1. References from at least one senior legal academic, such as a Head of Department or Vice Chancellor, and from at least one senior member of the Bar and/or judiciary; 5.10.2. Any other supporting evidence that the applicant wishes to submit.

7	Application for Admission to the Bar as a Solicitor
Introduction	
7.1	A solicitor may apply to the Qualifications Committee for exemption from the Academic, Vocational and/or Professional Stages of training.
7.2	The completed application form should be accompanied by any supporting documentation and cheque for the requisite fee currently £440 made payable to the General Council of the Bar. 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.
Rules	
7.1	The relevant rules governing these applications are BTR 59, 60, 61, 62, 67(a), 67(b), 77(a).
Requirements and General Guidelines	
7.2	The application should be made on the prescribed form in typescript. The form can be downloaded from: www.barstandardsboard.org.uk/about/ourcommittees/qualificationscommittee
7.3	The information and documentation which must be provided with the completed application form is as follows: <ul style="list-style-type: none"> 7.3.1. Particulars (1) of the educational or professional qualifications which entitled the solicitor to be admitted as a solicitor; (2) his or her admission; and (3) any period of practice as a solicitor 7.3.2. A certificate of good standing issued by the Law Society of England & Wales or the Law Society of Northern Ireland 7.3.3. A declaration in the form set out in the application form 7.3.4. Evidence (where applicable) that the solicitor is or has been entitled to exercise rights of audience as a solicitor, specifying the rights concerned and the manner in which the solicitor has or had become entitled to exercise such rights 7.3.5. Any other representation or evidence on which the solicitor may wish to rely in support of any application to be wholly or partially exempted from any Stage of training prescribed by the BTR.

<p>7.4 Any solicitor unable to provide the certificate or give the declaration referred to above may still make an application, and the Qualifications Committee will approve the application if it is satisfied that the circumstances (including those resulting in the solicitor's inability to provide the certificate or give the declaration) are not such as to make it undesirable for the solicitor to be called to the Bar and to practise as a Barrister</p>
<p>Solicitors with higher rights of audience in both civil and criminal proceedings</p>
<p>7.5 Solicitors with higher rights of audience in both civil and criminal proceedings:</p> <p>7.5.1. Shall be wholly exempt from the Academic, Vocational and Professional Stages of training</p> <p>7.5.2. BTR 7 applies: "Where an applicant who is a member of an Authorised Body or a Qualified European Lawyer, a Certificate of Good Standing is to be treated as conclusive evidence that the applicant is a fit and proper person to become a practising barrister."</p>
<p>Solicitors with higher rights of audience in either civil and criminal proceedings</p>
<p>7.6 Solicitors with higher rights of audience in either civil or criminal proceedings:</p> <p>7.6.1. Shall be wholly exempt from the Academic and Vocational stages of training</p> <p>7.6.2. Shall be exempt from the Professional stage of training unless the Qualifications Committee determines (having regard in particular to the experience, previous practice and intended future practice of the solicitor) that there are exceptional circumstances applying to the solicitor, in which case the Qualifications Committee will determine and certify what period if any, not exceeding 6 months, of non-practising and practising pupillage the solicitor shall undertake</p> <p>7.6.3. BTR 7 applies: "Where an applicant who is a member of an Authorised Body or a Qualified European Lawyer, a Certificate of Good Standing is to be treated as conclusive evidence that the applicant is a fit and proper person to become a practising barrister."</p>

Solicitors with no rights of audience

- 7.7 Solicitors with no rights of audience:
- 7.7.1. Shall be exempt from the Academic and Vocational stages of training, but this may be conditional upon passing the oral parts of the Bar Transfer Test
 - 7.7.2. The Qualifications Committee will determine in each individual case whether the solicitor is required to pass either or both of the oral parts of the Bar Transfer Test. It will usually only require a solicitor who has no significant advocacy experience to pass Part 4 (Ethics) of the Test. In the absence of exceptional circumstances it will only require a solicitor who has been required to pass Part 4 to pass Part 5 (Advocacy) of the Test.
 - 7.7.3. Such a solicitor will almost always be required to undertake at least some period of practising pupillage.
 - 7.7.4. A newly qualified solicitor will usually be required to undertake 6 months of non-practising pupillage and 6 months of practising pupillage.
 - 7.7.5. A solicitor of less than 5 years' experience will usually be required to undertake 3 to 6 months of non-practising pupillage and 6 months of practising pupillage.
 - 7.7.6. A solicitor of more than 5 years' experience may be exempted from the whole of the non-practising period of pupillage or required to undertake up to 3 months of such period and will usually also be required to undertake 3 to 6 months of practising pupillage.
 - 7.7.7. In determining the precise period of pupillage to be required in any case the Qualifications Committee will take into account the nature and extent of the solicitors' experience, including in particular significant advocacy experience.
 - 7.7.8. If a solicitor has been out of practice for a significant period the Qualifications Committee will take that fact into account when determining whether to require either or both of the oral parts of the test to be passed and the precise period of pupillage to be undertaken.
 - 7.7.9. BTR 7 applies: "Where an applicant who is a member of an Authorised Body or a Qualified European Lawyer, a Certificate of Good Standing is to be treated as conclusive evidence that the applicant is a fit and proper person to become a practising barrister."

3.13 All Solicitor applicants

7.8 The Committee will usually reduce to 6 the number of Qualifying Sessions the applicant is required to attend, and will usually specify that these should be attended within 3 years after Call to the Bar.*

* NB this may change to a requirement to complete prior to Call (if approved)

Appendix E - Useful contacts and addresses

Bar Standards Board	289-293 High Holborn, London WC1V 7HZ (0207 611 1444)
Chair of the BSB	Baroness Ruth Deech
Director of the BSB	Dr Vanessa Davies
Chair, Education & Training Committee	Professor Andrew Sanders
Head of Education Standards	Dr Valerie Shrimplin
Manager, Qualifications Regulations	Joanne Dixon (jdixon@barstandardsboard.org.uk)
Training Regulations Officer -	Pauline Smith (psmith@barstandardsboard.org.uk)
Publication of BTT results	Sophie Maddison (smaddison@barstandardsboard.org.uk)

BTT Provider(s)

BTT Director	XXX
Academic Guidance	XX
Admissions	XXX
General queries	XXX

Inns of Court

Lincoln's Inn	www.lincolnsinn.org.uk
Middle Temple	www.middletemple.org.uk
Gray's Inn	www.graysinn.org.uk
Inner Temple	www.innertemple.org.uk

Specialist Bar Associations and others

Administrative Law Bar Association	www.adminlaw.org.uk
Association of Women Barristers	www.womenbarristers.co.uk
Bar Association for Commerce, Finance & Industry	www.bacfi.org/
Bar Association for Local Government & Public Service	www.balgps.org.uk/
Bar European Group	www.bareuropeangroup.org.uk
Bar Lesbian and Gay Group	www.blagg.org
BMIF	Telephone: 020 7621 0405
Chancery Bar Association	www.chba.org.uk
Commercial Bar Association	www.combar.com
Criminal Bar Association	www.criminalbar.com
Employment Law Bar Association	www.elba.org.uk
Family Law Bar Association	www.flba.co.uk
Free Representation Unit (FRU)	www.freerepresentationunit.org.uk
Intellectual Property Bar Association	www.ipba.co.uk
Law Centres Federation	www.lawcentres.org.uk
London Common Law & Commercial Bar Association	www.lclcba.com
Midland Chancery & Commercial Bar Association	see www.barcouncil.org.uk
Northern Chancery Bar Association	www.nchba.co.uk
Northern Circuit Commercial Bar Association	www.nccba.org.uk
Parliamentary Bar Mess	see to www.barcouncil.org.uk
Personal Injuries Bar Association	www.piba.org.uk
Planning & Environmental Bar Association	www.peba.info
Professional Negligence Bar Association	www.pnba.co.uk
Property Bar Association	www.propertybar.org.uk
Revenue Bar Association	www.revenue-bar.org
Society of Asian Lawyers	www.societyofasianlawyers.com
Society of Black Lawyers	www.blacklawyer.org
Technology and Construction Bar Association	www.tecbar.org
Western Chancery & Commercial Bar Association	see www.barcouncil.org.uk