

**REGULATORY OPERATIONS DEPARTMENT**

**AUTHORISATIONS TEAM**

**CRITERIA AND GUIDELINES FOR THE EXERCISE OF DISCRETION**

These Notes are divided into two sections:

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

**B. Criteria for applications**

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| ***Nature of Application*** | ***Brief Summary*** |
| 1. **Exercise of Discretion** | This covers applications by students who have obtained a degree below the required minimum standard of a lower second class honours. |

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

**1 General**

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

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

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

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

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

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

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

* 1. All applications contain a declaration that the applicant has read, understood and complied with these Criteria and Guidelines.
  2. Applications are considered and determined under the powers of the Bar Standards Board. The Bar Standards Board has delegated to BSB staff the ability to take decisions within the criteria and guidelines set out in this document.
  3. An applicant must ensure that all supporting evidence is sent with the application form. Where original certificates or certified copies are required, these must be sent in hard-copy or emailed directly to the BSB.
* Any hard-copy documents will be scanned upon receipt. To facilitate this process, please ensure that documents supplied with an application are not stapled or submitted in individual plastic wallets.
* If an applicant requires their original documents to be returned, they must provide a prepaid envelope for this purpose. If the documents are to be returned by courier, it is the applicant’s responsibility to arrange for courier and pay any necessary charges.
  1. An application will not be treated as “complete” until the application form, required supporting documentation and application fee have been received. The BSB may request further information or documentation be supplied in support of an application, but applicants should note that it is the primary responsibility of the applicant to provide all relevant information and supporting evidence.
* Applicants should exercise judgement when selecting supporting evidence and ensure that only documentation that is relevant to the criteria set out in this document is supplied.
* It is usually **not** appropriate to supply examples of work with an application. Any applicant who does supply such examples should ensure that documents that refer to third parties (eg clients) are suitably redacted so as to ensure anonymity. Any application that is supported by unredacted material will be returned to the applicant.
  1. The BSB will take into account all the circumstances of the particular application and will apply the guidelines set out in these Notes.
  2. All applications will be acknowledged in writing within seven days of receipt of the complete application form.
  3. The BSB normally deals with all applications within eight weeks of receipt and notifies applicants of its decision within 10 days of a decision.
  4. The BSB will treat all applications and any supporting documentation provided in the strictest confidence.
  5. All enquiries about applications whether proposed or pending should be addressed to the BSB.

1. **Reviews and Appeals**
   1. Any applicant who is dissatisfied with a decision may request a review of the decision.
   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 and must be accompanied by the appropriate application fee. All requests will be acknowledged in writing within seven days of receipt.
   3. The Independent Decision-making Body (IDB) deals with reviews of decisions as if the application was being dealt with afresh, applying the guidelines set out in these Notes. An Independent Decision-making Panel (IDP) shall be entitled to have such regard to the original decision, and to uphold, vary or take into account such decision, as in its absolute discretion it feels appropriate.
   4. Applications for review are normally determined within 10 weeks of receipt. Should it not be possible to deal with a review within this timescale, the applicant will be notified.
   5. All enquiries about reviews whether proposed or pending should be addressed to the BSB.
   6. Where an IDP has determined a review of a decision, there is no procedure under the BQR for a further review. An IDP may review its own decisions under section B4 of the BQR but is not obliged to carry out such a further review. Any person dissatisfied with a determination of an IDP is advised to take independent legal or other appropriate advice.
   7. Rule Q39 provides that where the BQR provide for a review by the BSB of a decision, no appeal may be made to the High Court unless such a review has taken place.
   8. Rule Q40 provides that subject to Rule Q39, a person or organisation who is adversely affected by a decision of the BSB may appeal to the High Court, in accordance with the Civil Procedure Rules.

**Online Resources**

BSB website: [www.barstandardsboard.org.uk](http://www.barstandardsboard.org.uk)

Applications forms and guidance notes: [www.barstandardsboard.org.uk/training-qualification/barrister-training-waivers-and-exemptions.html](http://www.barstandardsboard.org.uk/training-qualification/barrister-training-waivers-and-exemptions.html)

**Contact details**

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Tel: 020 7611 1444

**B. Criteria for applications**

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| **Exercise of Discretion** |
| **General**  1.1 Please read these notes carefully, in conjunction with the Bar Qualification Manual, available to download from [www.barstandardsboard.org.uk](http://www.barstandardsboard.org.uk), before completing and submitting your application.  1.2 For details of the application fees for all academic component applications, please refer to the Bar Standards Board website: [www.barstandardsboard.org.uk/training-qualification/barrister-training-waivers-and-exemptions.html](http://www.barstandardsboard.org.uk/training-qualification/barrister-training-waivers-and-exemptions.html) |
| **Introduction**  2.1 The minimum requirement for completion of the academic component of training for the Bar is a UK honours degree, or equivalent, of at least lower second class honours standard.  2.2 Students failing to achieve this minimum standard as a result of exceptional mitigating circumstances may be allowed to proceed to the vocational component of training (ie a vocational component Bar Training Course/Bar Practice Course) through the exercise of discretion by the Bar Standards Board.  2.3 Submission of an application for the exercise of discretion must not be taken as a guarantee that such an application will be successful. The outcome of each application depends entirely on the individual circumstances of the applicant.  2.4 A successful application for the exercise of discretion does not guarantee a place on a vocational component Bar Training Course/Bar Practice Course. |
| **Information and Documentation**  3.1 An applicant will be required to provide the following information and documentation:  3.1.1 A full account of the reasons why, in your view, you failed to achieve the Bar’s minimum entry requirement in your degree. The statement must set out any relevant mitigating circumstances and must address the application criteria at paragraph 4.1 below.  3.1.2 A letter from your tutor/lecturer giving details, from their own knowledge, of circumstances considered relevant to the application. The letter must include:   * your general overall performance as a student; * whether your degree result accords with the expectations of your tutors, derived from your performance in previous examinations; * whether any deterioration in your performance on the degree could be attributed to a temporary cause which prevented/impeded you fulfilling your full academic potential; and * details of the extent to which any mitigating circumstances were taken into account by the awarding institution.   3.1.3 Evidence of the mitigating circumstances detailed in the statement described at paragraph 3.1.1 above must be provided (eg medical reports). If you made a declaration of mitigating circumstances to your awarding institution, please confirm any action taken by the institution in response to your declaration. If you did not make a declaration of mitigating circumstances to your awarding institution, please confirm the reason(s) for this.  3.1.4 Currently dated official transcripts must be provided for all qualifications listed on the application form. Transcripts must show:   * The student’s full name; * The final overall classification/mark of the qualification; * The date of award; * All subjects taken within the qualification; * The number of attempts at each subject; * All marks and/or credits obtain in all years of study. Where an alphanumeric grading system is used, a key must be included showing the actual marks, or mark ranges, represented by the grades shown on the transcript.   **Transcripts should be submitted as originals in a sealed envelope over-stamped with the official stamp, or seal, of the awarding institution**. If you are unable to supply documents in this format, we are currently accepting scanned copies of official documents via email. Please note that we may contact the issuing bodies of any official transcripts/certificates to verify their content as part of our assessment process.  3.1.5 References must be in the referee’s own words and must be submitted in sealed envelopes. There is no minimum or maximum number of references required. However, all references must relate directly to the purpose of the application. Generic references (eg a vocational component Bar Training Course/Bar Practice Course application reference) will not be accepted. Referees must have first-hand knowledge of the applicant.  3.1.6 If, for any reason, the names you have entered on your application form differ from those given on your degree transcripts and/or other supporting evidence, appropriate evidence of the change(s) must be enclosed with your application. Photocopies of this documentation must be certified copies, ie certified as true copies by a UK Notary Public, or a qualified legal practitioner from your home jurisdiction. Any other form of certification will not be accepted. |
| **Criteria**  4.1 Applications for the exercise of discretion will only be granted in the following circumstances:  4.1.1 where there is clear evidence that the student is academically of second class quality overall; and  4.1.2 where it appears that the student’s failure to achieve a second class degree was directly attributable to a temporary cause which prevented/impeded him/her fulfilling his/her full academic potential. |
| **Guidelines**  5.1 Completion of the academic component of training for the Bar  A Graduate Diploma in Law course (GDL) will only be accepted for completion of the academic component of training for the Bar in combination with a UK/Republic of Ireland undergraduate degree of lower second class honours, or above (or its equivalent, as verified by the Bar Standards Board). Students with third class undergraduate degrees are therefore advised to apply for the exercise of discretion before commencing study on a GDL course to ensure their degree qualifications will be acceptable to the BSB for completion of the academic component. Please contact us via email at [authorisations@barstandardsboard.org.uk](mailto:authorisations@barstandardsboard.org.uk) for further guidance.  5.2 Stale law degrees  A person may not start the vocational component of training for the Bar (ie a vocational component Bar Training Course/Bar Practice Course) more than five years after completing the academic component, except with the permission of the Bar Standards Board and after complying with any condition which the Bar Standards Board may impose. If your law degree was awarded more than five years ago, please contact us at [authorisations@barstandardsboard.org.uk](mailto:authorisations@barstandardsboard.org.uk) for further guidance before submitting an application for the exercise of discretion.  5.3 Degrees awarded without a classification  A student who had been awarded a degree without a classification (eg an aegrotat degree awarded as a result of illness) should apply for the exercise of discretion, as set out above. Please contact us at [authorisations@barstandardsboard.org.uk](mailto:authorisations@barstandardsboard.org.uk) for further guidance if you have been awarded a degree in this category.  5.4 If it remains your intention to qualify for the Bar of England and Wales, following an unsuccessful application for the exercise of discretion, you must obtain another degree which meets the Bar’s minimum entry requirement. |