

## Guidance Note for Transferring to the Bar of England and Wales

### Introduction

At The Barrister Group we are seeing an increasing number of enquiries from all types individuals looking to transfer to the Bar of England and Wales. This increase is also being experienced by the BSB and as at February 2024, the BSB added additional resources to the Authorisations Team to specifically deal with the backlog.

Qualified solicitors, foreign qualified lawyers, legal academics and legal teachers/lecturers may now transfer to the Bar by way of an application on the basis of prior qualifications and experience rather than being required to sit the full Bar Transfer Test as was the case before August 2021.

There are 3 components of qualification as a barrister:

- Academic
- Vocational
- Pupillage/Work-based training

And separate to the training provisions and which has to take place before an individual can apply for a practising certificate:

- Call to the Bar which includes a requirement to undertaken qualifying sessions (this can presently take place before pupillage)

### Changes to Bar Transfer Test

Whilst the Bar Transfer Test (BTT) still exists, its format has now changed. For those applicants who have outstanding BTT requirements, you can see the BSB guidance on how to transition to the new provisions here: [BTT Transitions](#)

Under the new requirements, those who are partially exempted from the academic or vocational requirements may be required to pass specific sections of a BTT in order to secure a full exemption. Further details can be found in Part 7D of the Bar Qualification Manual (BQM) here: [Part 7D BTT](#)

### The Rules

The high-level rules for exemptions of the different components of Bar training and full and partial exemptions are set out in [Part 4-B: Bar Qualifications Rules](#) in the BSB Handbook.

These rules are supplemented by more detailed and practical rules set out in [Part 7 of the BQM](#)

This section includes links to guidelines for the different types of transferring lawyer and also MyBar where you will need to make your online application. The BSB will need to set up a

profile within MyBar to allow you to do this: you need to email [transferringlawyers@barstandardsboard.org.uk](mailto:transferringlawyers@barstandardsboard.org.uk) with your full name and title, postal address, and contact email address.

It is also possible to apply for Temporary Call to the Bar for a specific case(s), the process is set out in [Part 7 of the BQM](#).

- **A full exemption from the training provisions**

The qualification rules (rules Q14-16), indicate that certain applicants, with certain experience, may be able to get a full exemption, this includes:

- Applicants who have been granted rights of audience by an approved regulator (*as set out in the Legal Services Act 2007*) and are entitled to exercise those rights in relation to **all** proceedings in all courts of England and Wales;
- Applicants who have been granted rights of audience by an approved regulator and are 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);
  - Rule Q15 states that the BSB may exceptionally require such an applicant to do part of pupillage if it is considered necessary having regard to the knowledge, professional experience and intended future practice of the applicant.
  - *N.B: in our experience, the BSB exercise this discretion in virtually all cases where an individual only have one set of higher rights.*
- Barristers of Northern Ireland who have successfully completed pupillage in Northern Ireland; and
- A qualified Swiss lawyer.
- Rule Q16 states that the BSB may require the applicant to pass a BTT if the matters covered by education and training of the applicant substantially differ to the training covered in academic and vocational training in the UK; and the knowledge acquired through their professional experience does not fully cover this gap. However, this is also subject to rules Q18-20 which relate to the Swiss Citizens' Rights Agreement and whether the individual is a Registered European Lawyer.

#### What does this mean in practice?

- That only those who have higher rights of audience in all courts in England and Wales (presently this will be solicitors), can obtain a full exemption without the BSB having discretion to require an element of pupillage (or other training) to be undertaken.
- In other circumstances full exemptions are rare. In our experience and from anecdotal evidence, even those with one set of higher rights, are required to undertake a period of pupillage. \*
- That in all cases, a robust application which maps an applicant's competence against the Professional Statement for Barristers is essential.

*\*This means that an individual has to apply for pupillage in line with the mandatory timetable alongside all other applicants. The only other avenue is if they have an AETO who is prepared to apply to the BSB for a waiver from the advertising rules in order to deliver pupillage to them. However, such applications are rare and the existence of a partial waiver of pupillage is explicitly excluded by the BSB from the criteria for such applications.*

- **A partial exemption from the training provisions**

The rules on partial exemptions (rules Q23-24), specifically mention the following categories of individuals who will be exempted from the academic and vocational components and if the BSB thinks fit, from all or part of pupillage:

- An applicant who has been granted rights of audience by another approved regulator and is entitled to exercise those rights in relation to any class of proceedings in any of the Senior Courts or all proceedings in county courts or magistrates' courts in England and Wales.
- A Qualified Foreign Lawyer who has for a period for 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.
- A teacher of the law of England and Wales of experience and academic distinction.

#### What does this mean in practice?

- The BSB retains discretion, particularly in relation to pupillage, which in our experience is rarely granted as a full exemption.
- For qualified foreign lawyers, there are two important aspects:
  - similarity to or qualification and experience in common law jurisdictions; and
  - regular exercise of full rights of audience for at least 3 years. It is likely that this will also need to be recent.
- For teachers of law in England and Wales the following will be crucial:
  - Proof of academic achievements (expectation of a national or international reputation);
  - Proof of seniority, standing and distinction (expectation to have achieved the level of senior lecturer within a university);
  - References from at least one senior legal academic; and
  - Academic CV.
  - Without advocacy experience, a significant exemption from pupillage is unlikely.

If an applicant does not fall into one of these categories or does not meet the level of experience detailed, it is still possible to obtain a partial exemption to the qualification rules. This would require a robust application demonstrating your qualifications, knowledge and experience as mapped against the competences in the [Professional Statement for Barristers](#). The BSB will assess each application on a case-by-case basis, and this is why it is imperative that you include details of all relevant experience, supporting documentation and references.

Please note that if you are a solicitor of England and Wales who has also been called to the Bar, you can apply through a different route – [by applying for a reduction/wavier of pupillage](#) which is a paper-based application.

## Making your application

As above, you will need to establish a MyBar account in order to make your online application. Once you are in MyBar, if you select “My applications” in the left-hand menu, click on “my applications” and this will allow you to select a new application; for application type, at the moment, only the one called “Transferring Qualified Lawyer” is operative. After you have submitted your application, the BSB will send you an invoice for the fee of £440 and will not consider your application until they have received payment.

It is very much worth dedicating the time to make your application as detailed and specific as possible evidencing that you meet the competencies in the Professional Statement. The reason for this is that unless you meet the very limited criteria set out above (essentially you have been granted rights of audience by an approved regulator and are entitled to exercise those rights in relation to **all proceedings in all courts** of England and Wales or are a Barrister of Northern Ireland who has successfully completed pupillage in Northern Ireland), there is a distinct possibility that you will be required to undertake an element of pupillage in order to complete your transfer to the Bar.

As also above, this means that, unless you can also benefit from a BSB waiver from the mandatory advertising timetable, you will need to apply for pupillage alongside all other candidates, including those who require the full 12 months pupillage. The mandatory timetable requires that all offers of pupillage are made once a year; usually during May.

We hear anecdotally from many such candidates that applying for pupillage in this way can be an uphill battle given that most chambers who advertise through the Pupillage Gateway are looking for a traditional candidate requiring a 12-month pupillage\*. Additionally, AETOs are not required to automatically apply a waiver and they may make an offer on the basis that you undertake a full 12 month pupillage.

*\* The Barrister Group actively advertise that we welcome applications from prospective pupils and transferring qualified lawyers with waivers; in recognition that the BSB will have awarded this based on significant relevant knowledge and experience*

All applications will be considered for full or partial exemptions, meaning that even if an applicant does not meet the requirements for a full exemption the BSB may grant a partial exemption, which means that the BSB can tailor the exemption to what they consider the applicant needs to undertake to demonstrate achievement of the competences in the [Professional Statement for Barristers](#).

The BSB has published guidance on how to make an application to transfer to the Bar and details what information is required. There is separate guidance for: qualified foreign lawyers; law teachers; European Lawyers; and transferring solicitors. So do ensure you are looking at the guidance which is most relevant to you and your individual circumstances. You can find all of the guidance here: [BSB guidance for transferring lawyers](#)

At section 10 of the application form, the applicant will be asked to upload a personal statement which should address the competences in the [Professional Statement for Barristers](#). The personal statement should set out practical examples from employment; a detailed breakdown is key here and the application form specifically states: ‘generalised statements will not be taken into consideration’. It is vital that applicants take the time to work through their experience and qualifications and detail which competences have been met; any experience detailed should clearly relate to the competences. The BSB include a Professional Statement Mapping Document as an annex to their guidance note, which may be useful.

- **Documents to support your application**

Other than the documents specifically requested by the BSB to support your application, it is not recommended that you send any other documentation; in particular, the BSB does not wish to see copies of judgments or any other case papers.

### **BSB assessment criteria**

The BSB use the following marking terminology when assessing an application against the competencies and this will be helpful to bear in mind whilst mapping yourself against the competences:

Introductory	Some high-level or basic coverage of the competence.
Foundation	Demonstration of knowledge of the competence to a minimum standard that will permit you to progress to the work-based learning component of training (pupillage).
Threshold	Demonstration of the competence to the Threshold Standard, as described in the Professional Statement.
Threshold or above	Further coverage of the competence beyond, or at, the level of the Threshold Standard.
✓	Demonstration of the competence other than at the levels specified above.

### **Being Called to the Bar**

Once your application to the BSB has been approved, you need to be Called to the Bar before you can apply for a practising certificate. There are four Inns of Court and generally four Call ceremonies each year in March, July, October and November.

Before being Called to the Bar, there is a requirement to complete 10 Qualifying Sessions at your chosen Inn. These sessions are intended to be educational, collegiate and complementary to Bar training. The topics fall into the following themes:

- Ethics, Standards and Values
- Advocacy Skills
- Legal Knowledge, Justice and the Rule of Law
- Equality, Diversity and Inclusion

- Preparation for Pupillage, Career Development and Wellbeing

Any waivers used to be considered by the BSB alongside an application to transfer to the Bar. With effect from April 2023, decisions on any waivers now fall to the specific Inn of Court. We understand that it is possible for these sessions to be deferred until after Call for transferring lawyers; again though, the decisions for this will rest with the Inns of Court.

### Summary

Whilst the process is robust and a strong application does request time and effort, this is simply a hurdle which needs to be properly navigated in order to transfer to the Bar. This step is being increasingly considered by many qualified lawyers who recognise the strength of the English legal system and who crave the independence and control that a self-employed practice at the Bar can provide.

If you are a transferring lawyer and you feel you fit into one of the categories mentioned within this guidance note and would like to discuss the transfer process in more detail, the Barrister Group is happy to assist. Visit the [Join Us](#) page of our website and reach out through the various ways to contact us and the Business Development Team will be in touch to discuss further.

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