



# Guernsey Bar Examinations

## Pupillage and Assessment Guide 2024

**November 2023**

## 1. INTRODUCTION

The formal assessment process has two objectives. These are to ascertain:

- (i) that the student has a thorough working knowledge of both Compulsory Papers, and the two chosen Optional Units and
- (ii) that the student has reached a competent standard in the skills required in practice.

Candidates and their Pupil Masters are reminded of the content of the Royal Court Practice Direction No 2 of 2011.

Every pupil must be accredited to an Advocate of at least 5 years standing at the Guernsey Bar and when pupillage commences the Pupil Master is required to notify the Secretary to the Bailiff formally (copied to HM Procureur).

The Pupil Master must specify that he/she is taking on the pupil concerned so that it is clear that the Court pupillage is about to commence and to whom the pupil is responsible. It will also be clear that the Pupil Master has taken on the responsibility inherent in a pupillage relationship.

The Practice Direction also provides that persons will not be permitted to sit the Guernsey Bar Examinations until they have spent at least six months in pupillage in an Advocate's Chambers.

The Pupil Master will generally be responsible for seeing that the pupil applies himself or herself diligently during the pre-examination pupillage period, so that the pupil is properly prepared to sit the Guernsey Bar Examinations. It is especially important that the pupil achieves a reasonable level of competence to enable him or her to conduct his or her practice generally and ethically and in all matters before the Court.

The responsibility of a Pupil Master extends to ensuring that a pupil who is a candidate for the examination has access to adequate notes which may be achieved by following the course offered by Law Guernsey, supplemented by appropriate instruction and guidance from the Pupil Master and/or other Advocates, whether within the pupil's firm or from elsewhere across the Bar. The Pupil Master must report in writing to the Bailiff (as Chairman of the Board of Examiners) by 29 March that the pupil has discharged himself or herself with due diligence during the pre-examination period, and state that he or she is satisfied that the pupil has achieved a standard which will enable the pupil to sit all his or her papers with a reasonable expectation of passing them; otherwise the candidate will not be permitted to sit the exams.

In the event that a candidate for the examination does not secure an overall pass, the Board of Examiners expects the candidate to have detailed discussions about that performance with his/her Pupil Master before considering seeking the opportunity for feedback on behalf of the Board of Examiners (see 3:1:12).

Candidates are encouraged to write their scripts using a personal computer provided by the GTA University Centre. Candidates can, however, elect to hand-write any of their examinations and are requested to advise the GTA at the time of application of such an election.

## 2. SYLLABUS

Candidates are required to take two Compulsory Papers and two Optional Units out of the five available as detailed below.

Compulsory Paper 1                      Bailiwick Laws, Constitutions and Administrations

Compulsory Paper 2                      Professional Conduct, Ethics and Related Issues

### OPTIONAL UNITS

Paper 1                                      Civil Practice & Procedure

Paper 2                                      Criminal Practice & Procedure

Paper 3                                      Property Law

Paper 4                                      Family Law

Paper 5                                      Corporate Law and an Introduction to Financial  
Services Law

**All questions within each paper are compulsory: there are no choices available. In order to pass the Examination, a candidate must achieve 50% or more in Compulsory Paper 2: no compensated pass is available (see 3:1:8).**

The syllabus is a matter for the Royal Court.

## 3. ASSESSMENT REGULATIONS

### 3:1 EXAMINATION BOARD AND REGULATION

#### 3:1:1 Composition of the Examination Board

Bailiff – Chairman and Moderator (with assistance from the Deputy Bailiff and HM Procureur when requested by the Bailiff).

#### Examiners

In attendance: the Secretary to the Board (Secretary to the Bailiff) and a representative from the GTA University Centre (hereinafter 'GTA').

The appointment of the Examiners is a matter for the Royal Court. The appointment of Second Marker is a matter for the Board of Examiners.

In the case that two or more people are jointly appointed as Examiner for a particular paper, then the appointment of a Second Marker for that paper would not be required.

With the permission of the Moderator, either of the Markers may delegate marking to a Third Marker.

### 3:1:2 The Role of the Examination Board

The role of the Examination Board is to oversee all matters relating to drafting examination papers, assessment and publication of results. In undertaking its duties the Board will ensure that all marked scripts are moderated and results published in a timely and equitable way.

It is a responsibility of all members of the Examination Board to ensure that all reasonable steps are taken to ensure security of examination papers, mark schemes and scripts. That includes awareness of potential issues for locations where documents are held on computer or in hard copy.

The Moderator will approve draft examination papers and ensure comparability with previous examination diets in particular the apportioning of marks per question and the degree of difficulty per paper.

**The determination of the Examination Board in all matters relating to assessment will be final and no further dialogue will ensue between an Examiner and a candidate.**

### 3:1:3 Moderation

All Examiners should be experienced in Guernsey Law and should have clear understanding of the assessment criteria to be used, the allocation of marks and the meaning of various grades. They should provide guidance to the Moderator (with the draft question paper) on the marking issues which arise out of each question set, including a marking scheme (and/or mock answers, as directed by the Moderator, in bullet point format).

In order to ensure efficiency of the examination process it is essential that Examiners punctiliously follow the agreed timetable for completion of the various stages. The timetable is issued to all Examiners by the GTA at the commencement of the examination setting process.

Every effort should be made to ensure consistency of standards by the application of objectively stated criteria for the award of marks.

Some form of moderation is vital to ensure the equitable treatment of all students throughout the assessment process. The role of the Moderator exists to ensure (notwithstanding the availability of detailed marking guides) that where there is deviation from the norm this can be identified and rectified. This applies to both lower standards (more generous) and higher standards (less generous).

### 3:1:4 Conduct of Examinations

#### *Cheating and other misconduct*

A candidate who at any stage of the formal assessment process is guilty of academic dishonesty or other misconduct shall be liable to one or more of the following penalties:

- failure of the examination
- exclusion from any future examinations
- referral to the Royal Court.

### *Mitigating Circumstances*

Mitigating circumstances are defined as circumstances which the candidate feels may have had a significant impact on their academic performance. Such circumstances might include, but are not limited to, illness, injury, personal/family problems, or bereavement.

If exceptional circumstances arise that affect a candidate's examination performance, the candidate will be required to make the following representations to the Examination Board:

1. write to the Examinations Manager at the GTA outlining the mitigating circumstances;
2. deliver the letter together with supporting medical documentation as appropriate to the GTA no later than seven working days after the date of the examination.

A causal link must be established between mitigation and impaired performance. Supporting medical documentation is expected in the case of all applications based on ill health and must be tendered at the same time as the mitigating circumstances form. Such evidence must clearly identify that the mitigating circumstances relate to the taking of the paper(s) concerned or affected preparation for it/ them.

Only the Examinations Manager, in attending the Board of Examiners, will know the identity of the candidate. Their identity will remain anonymous to the other members of the Board. The Board of Examiners will consider the application in confidence. It will not inform any other party of the details of the mitigating circumstances. The application documentation will be destroyed no later than six months following the meeting of the Board of Examiners.

If a candidate establishes to the satisfaction of the Board of Examiners that there were mitigating circumstances which impaired his/ her performance in the examination which he/ she failed, the Board may discount that attempt and permit the candidate a further attempt without penalty. Alternatively, at the discretion of the Chairman, the candidate may be offered a viva voce (see 3:1:6).

**Correspondence must be conducted only through the Secretary to the Board of Examiners or through the GTA (as appropriate).**

### 3:1:5 Marking Process

All examination scripts must be independently double marked. It is essential that such double marking is 'blind' i.e. the second marker marks the script without the benefit of knowing the views of the Examiner (the principal marker). On completion of the marking process the principal and second marker should agree the final mark to be awarded to the candidate. Only in the most exceptional circumstances should the Board of Examiners intervene or amend the award of marks, i.e. the primacy and integrity of the Examiner must be maintained at all times.

The pass mark for each paper is 50%. A candidate who does not achieve 50% in Compulsory Paper 2 fails that paper; a marginal failure cannot be compensated (see 3:1:8). Compulsory Paper 1 and each Optional Unit are all of equal weight in determining a candidate's overall performance. Examiners should bear in mind the overall grades available (see 3:1:7) when marking individual scripts.

Each Examiner should furnish the GTA with agreed marks seven days before the sitting of the Examination Board to allow timely completion of schedules for consideration by the Moderator and Board.

### 3:1:6 Viva Voce

Before determining a candidate's final overall result, the Examiner of a paper in which the candidate has not achieved a pass mark of 50% may recommend that consideration be given to offering the candidate a viva voce. Taking into account all the circumstances of the candidate's situation and any views expressed by the Examination Board, the Chairman shall decide whether to offer the candidate a viva voce in that paper. The decision of the Chairman is final.

A viva voce will be conducted by the Examiner and second marker jointly. It will be attended by an impartial witness. An audio recording will be made of the viva voce, thereby enabling the Moderator to listen to it should that be necessary. At the conclusion of the viva voce, the Examiner and second marker will award a final mark in respect of the candidate's performance in that paper, which will then be used for the purpose of assessing the candidate's overall result.

### 3:1:7 Final Overall Results - Pass

A candidate (including a candidate who benefits from a compensated pass: see 3:1:8) who achieves marks of 50% or above in all four papers offered will be awarded an overall pass.

Candidates will be awarded graded passes according to their overall performance as detailed below:

Distinction	75% or above
Merit	60% - 74%
Pass	50% - 59%

### 3:1:8 Compensation of Marginal Failure

A candidate who achieves a mark of 45% – 49% in Compulsory Paper 1 or in one of the Optional Units and marks of 50% or above in the other three papers may, in the discretion of the Board and having regard to the candidate's overall performance, have that marginal failure treated as if the paper in question had been awarded 50% (a 'compensated pass').

For the avoidance of doubt, a compensated pass is not available in respect of Compulsory Paper 2.

### 3:1:9 Final Overall Results - Referral

A candidate (including a candidate who does not benefit from a compensated pass; see 3:1:8) who obtains less than 50% in one paper but who has obtained marks of 50% or above in the remaining three papers will not be required to re-take the entire Examination but will be permitted to re-take that one paper (a 'referral'). Candidates must obtain 50% or more in a referral.

Re-examination in a referral will take place on a date to be fixed at the discretion of the Board or the relevant Examiner, but which in any case will not be before 1 September 2024.

Candidates may offer themselves in a referral in that one paper on a maximum of two occasions. Candidates who do not obtain an overall pass following their second attempt at a referral must thereafter re-take the entire Examination.

### 3:1:10 Final Overall Results – Failure

A candidate who in two or more papers does not obtain 50% will fail the entire Examination. Such a candidate will not be eligible to re-enter the Examination except under the arrangements in place for 2024-25 Examination dates and thereafter.

Candidates re-taking the entire Examination which be subject to above arrangements.

### 3:1:11 Publication of Final Results

Individual candidates will be advised in writing by the Bailiff's Office within seven working days of the final meeting of the Examination Board. Candidates will be made aware of the marks they have achieved in the individual papers sat.

Candidates who have not paid their full examination fees will not be advised of their results. If they have successfully passed their names will be withheld until settlement of all fees. No correspondence will be entered into with individual candidates or their representatives.

### 3:1:12 Post-examination feedback

A candidate who has failed one or more papers may, after discussing that performance with his or her pupil master/mistress, make a request to meet with the Deputy Bailiff for feedback in respect of that candidate's performance in the examination. The purpose of meeting with the Deputy Bailiff is not to seek to re-open any mark awarded by the Board of Examiners, but rather to review the candidate's approach to the examination so as to assist preparation for any future attempt to complete the examination.

## **4. THE ROLE OF THE GTA UNIVERSITY CENTRE**

The GTA provides the administrative support for the examination process and is responsible for liaising with the Chairman/ Moderator in relation to:

- establishing the annual timetable for the examination process
- liaising with Examiners to ensure timely receipt of all examination materials
- submitting draft examination papers to the Moderator and distributing comments thereafter to the Examiners
- formatting and preparation of examination papers including additional materials
- arranging the examination sittings, including invigilation, and notifying candidates of their examination dates and times
- collating the examination results and submitting them to the Chairman of the Examination Board
- holding examination scripts for three months following the publication of results

- destroying all examination scripts (both actual and copied) three months after the examination sitting
- attending the Examination Board as an observer.