



General Council of the Bar

PCF Application and Budget Submission 2017/18

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The General Council of the Bar
2017/18 PCF submission and BSB & Bar Council budget

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1. Summary

Practising Certificate Fees (PCF)

1.1 The 2017/18 General Council of the Bar (GCB) PCF has three drivers:

- Funding the permitted purposes operating costs of Bar Council and Bar Standards Board;
- the LSB/OLC recharges for 2016/17, and
- Funding to eliminate the legacy defined benefits pension scheme, which is currently in deficit.

1.2 GCB will fund the permitted purposes operating costs for Bar Council, Bar Standards Board (BSB) and LSB & OLC with the existing PCF arrangements: no increase in PCF is proposed.

1.3 GCB will increase the PCF by 12% and apply the entire incremental PCF collected arising, estimated to be £1.3M, to meet the statutory obligations of funding a recovery plan for the legacy defined benefit pension scheme.

1.4 GCB forecasts PCF collections of £12.4M in 2017 (£10.9M, 2016) and will allocate this:

- PCF arising from fee increases will fund the recovery plan for the legacy pension scheme (£1.3M 2017, £0.0M 2016).
- LSB & OLC recharges (£0.8M 2017, £0.8 2016).
- Permitted purposes operating costs for Bar Council and BSB (£10.3M 2017, £10.2M 2016).

	2015/16 Actuals	2016/17 Actuals	2017/18 Proposed
Permitted purposes operating costs	9,876	10,154**	10,276
LSB/OLC Levy	800	786	768
Legacy DB Pension Scheme	0	0	1,300
Total	10,676	10,940	12,344 *
*2017/18 total of £12,344k excludes contingency of £88k.			
**Budget collection target was £10,441k.			

1.5 GCB undertook a 4 week consultation process and received a small number of responses. Whilst they were all positive, the number received was statistically insignificant. No changes to the PCF proposals are considered necessary.

Key Features of Bar Council and BSB budget

- 1.6 The budget PCF collection target is £10.3M (£10.4M 2016/17 budget) (for regulatory and Permitted Purposes excluding LSB & OLC recharges). The amount of PCF applied to Bar Council representative Permitted Purposes is down £0.7M to £3.0M (£3.7M 2016/17 budget) and BSB regulatory purposes is up £0.5M to £7.3M (£6.8M 2016/17 budget).
- 1.7 The operating budgets for Bar Council and BSB are lower than the 2016/17 operating plans as a result of the experience of lower PCF collections during 2016's Authorisation to Practise process.
- 1.8 The BSB direct operating budget was set by BSB Board and the Board approved this budget bid on 29 September 2016.
- 1.9 The Bar Council budgets, the pension scheme funding plan and the total PCF needs were approved unanimously by the Bar Council on 5 November.

2. Proposed Practising Certificate Fees 2017/18

Arrangements for setting Practising Certificate Fees

- 2.1 In 2016, GCB simplified its PCF structure by amalgamating the previously separate levies for Bar Council/BSB and LSB/OLC into a single fee based on the earnings model. This change was effected without any problems or issues raised by the profession.
- 2.2 GCB does not propose any changes to the established PCF model in 2017 other than fee levels. GCB has considered and rejected the options of establishing a separate levy to raise funds for the pension scheme and of changing the basis for charging for the pension element as other than on the basis of income, ie in the manner of the existing PCF. GCB believes that current arrangements of a single income based PCF is appropriate and that the complexity of establishing either a separate levy or a change of basis for the levy does not facilitate addressing the issue or in improving the understanding within the profession.

2017 PCF Fees and Collection forecasts

- 2.3 The PCF Fees for 2017 are shown in Table 2 and a forecast of the fees to be collected are shown in Table 3.

Table 2 - Proposed PCF Fees for 2017

		2016	2017 proposed	Change on 2016
	Band and annual earnings			+12%
Band 1	0-30k	£110	£123	£13
Band 2	30k-60k	£220	£246	£26
Band 3	60k-90k	£441	£494	£53
Band 4	90k-150k	£803	£899	£96
Band 5	150k-240k	£1,219	£1,365	£146
Band 6	240k+	£1,652	£1,850	£198

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Table 3 - Fcst 2017 PCF Collections

		2016	2017 proposed	2016 actual mix	2017 Fcst mix	PCF Collected
Band 1	0-30k	£110	£123	13%	2,055	£252,765
Band 2	30k-60k	£220	£246	19%	2,965	£729,390
Band 3	60k-90k	£441	£494	19%	3,058	£1,510,652
Band 4	90k-150k	£803	£899	22%	3,412	£3,067,388
Band 5	150k-240k	£1,219	£1,365	11%	1,748	£2,386,020
Band 6	240k+	£1,652	£1,850	16%	2,562	£4,739,700
					15,800	£12,685,915
					Bulk Discount	(£254,000)
					Total Collections	£12,431,915 100%
					LSB/OLC	£768,000 6%
					DB Pension Reserve	£1,300,000 10%
					GCB Permitted purposes	£10,363,915 83%
					Less Contingency	£87,915
					2017 Budget Target	£10,276,000
					Bar Council	£3,031,000
					Bar Standard Board	£7,245,000
						<i>2016 Fcst</i> £10,154,292
						£3,409,292
						£6,745,000

Allocation of PCF



3. PCF drivers: the defined benefits pension scheme

- 3.1 This section describes the relevant background to the DB pension scheme and the arrangements proposed to address the cost increases and to ensure good governance of the funds.

Summary

- 3.2 GCB needs to fund a £1M annual contribution to the DB scheme until 2021. To achieve this, the PCF collections must rise by £1.3M annually, beginning at the next renewal in 2017, by raising PCF fee rates 12%. GCB proposes that the entire increase in PCF fee rises applied in 2017 and collected thereafter, will be used to fund the reported deficit on the DB scheme.

Background

- 3.3 GCB operated a defined benefit pension scheme (the DB scheme) for its employees between 1974 and 2013. The scheme closed in February 2013 and funding was provided by a levy, separate from PCF and which operated between 2010 and 2013, targeted at those in the profession who practised whilst the DB scheme was in operation.
- 3.4 The scheme trustees and the sponsoring employer, GCB, are required to undertake a triennial valuation of the scheme and to agree a recovery plan should that scheme be in deficit. The September 2012 valuation by the scheme's actuaries, Aviva, showed a deficit of £2.8M and a recovery plan was agreed between the Trustees and GCB to meet this deficit by September 2019. The substantial portion of this funding was provided by the residue of the 2010-2013 levy. The contributions in 2015 and 2016 were drawn from GCB's own non-PCF reserves. Reserves are at too low a level to continue this practise at the planned rate of contribution.
- 3.5 The 2015 triennial valuation by Aviva showed that the scheme's deficit had increased to between £3.7m and £5.4m due to significant increases in the pension liabilities driven by low interest rates and low bond yields. GCB received advice that since the valuation date the underlying factors that drive the deficit have moved adversely and that adopting the higher deficit valuation was prudent.
- 3.6 This pension deficit reporting issue is not restricted to GCB and there several reports of the low bond yields affecting the financial reporting of other organisations. The Pensions Regulator (TPR) publishes an annual funding statement analysing the expected trends for each tranche of triennial valuations. [The relevant report](#) that covers the period of the GCB scheme valuation shows that scheme deficits will tend to increase significantly and that the median expected outcome is a doubling of annual contributions from the sponsor.

Arrangements

- 3.7 GCB is following its legal obligations to agree a funding plan with the trustees and submit that plan to the TPR by the end of December 2016. This plan calls for the annual contributions to increase to £1m pa from 2017 and is a legal commitment that may be enforced by TPR. GCB, the trustees and the actuaries expect this arrangement to clear the deficit by 2021.

- 3.8 GCB aims to remove this £1.3M from the PCF altogether once the pension liability is discharged completely. GCB anticipates doing this in stages with the first stage of the reduction being in 2021, when the current deficit is expected to be met.
- 3.9 GCB will treat and account for these funds separately from PCF collected for other permitted purposes using a designated fund, the DB Pension Reserve, specifically for that purpose. The movements and operation of the fund will be audited as part of the independent annual audit and the results published in the annual accounts. The difference between the £1.3m collected from PCF and the £1m paid into the pension scheme will be retained in the dedicated reserve:
- To minimise the risk of the annual contribution not being able to be met if future PCF collections fall;
 - To make interim payments towards the scheme deficit if it becomes worse; and
 - To build a buy-out fund over the long term to eliminate the scheme altogether.

4. PCF Drivers: 2017/18 operating budgets for Bar Council and BSB

4.1 The operating budget proposals for 2017/18 and the longer term outlook are presented for the GCB organisation as a whole and then for the separate groups of BSB and BC.

Budget Summary

4.2 GCB plans for a £13.9M total expenditure budget for 2017/18, £0.4M lower than the 2016/17 budget and £0.1M higher than the latest forecast for the 2016-17 outturn. The high level proposals are shown in Table 4.

- BSB and BC costs are both lower than 2016/17 budget levels and will remain consistent with forecasted 2016/17 levels
- Headcount is lower than 2016/17 plans and is consistent with current forecasts.
- Non-staffing costs remain level.
- Overheads fall slightly.

Table 4 - 2017/18 Income and Expenditure Budget Proposals

	Bar Council	BSB	Total
PCF Income	3,031	7,245	10,276
Non PCF Income	2,524	888	3,412
Total Income	5,555	8,133	13,688
Direct Costs	3,745	5,212	8,956
Overheads	1,871	3,043	4,914
Total	5,616	8,254	13,870
Change on 2016/17 Budget (F)/A	(204)	(148)	(352)
Change on 2016/17 Forecast (F)/A	60	55	115

4.3 These plans will result in a small operating loss in the year, but cash reserves will climb slightly. This outcome allows GCB to deliver the BC and BSB strategies as planned, maintain services and continue the efficiency driving inward investments necessary to deliver the BSB strategy and minimise future costs.

- The operating loss is projected at £182K, but cash levels will rise £162k after capital investments and depreciation are taken into account.
- Total free cash levels, the underlying cash levels after planned commitments are taken into account, will climb to an estimated £1.8m.
- Reserves will fall to 2.3 months of cover, below the indicative target of 4 months cover. 4 months cover provides sufficient reserves to meet 1/3rd the combined annual operating costs of the organisation. Finance Committee has judged that this level of cover is acceptable.

Strategic Summary

- 4.4 The key points in GCB's overall financial strategy, covering the period to 2021, are to:-
- Keep PCF applied to operating costs flat, absorbing small changes in funding needs through management of general reserves;
 - To set up and maintain a separate pension reserve to address the DB pension scheme issues;
 - To continue to invest the non-permitted purposes reserves in capital projects to facilitate future efficiency savings in Bar Council and BSB activities, and to recover that investment through PCF charges arising from depreciation in future years.
 - The outcomes for Bar Council and BSB are shown in their own sections separately.
- 4.5 The Finance Committee has judged that we have sufficient reserves to continue this plan but that cash levels need to be monitored closely to ensure the organisation retains sufficient liquidity.

Organisation wide budgetary and financial risks

- 4.6 When agreeing the budget proposals and the PCF requirements, the Finance Committee considered the range of risks that may impact on Bar Council, BSB or both. These risks are present in 2017/18 and could lead to reductions in funding or increases in expenditure in that year or future years. These risks include:
- Reduced financial and staffing resource capacity to respond to change:
 - GCB overall reserves have declined and are not expected to grow until 2019. This reduces the contingency available to the business to absorb changes in funding or large, unplanned costs.
 - BSB and BC are both leanly resourced and have committed to two significant organisation wide change programmes that have a direct beneficial effect on future expenditure plans. Additional activity may disrupt those plans.
 - Threat of externally driven changes:
 - There are a number of government and external reviews planned or underway, where the outcome is uncertain, that may impact the funding, operations or priorities of the organisation.

Financial Outlook beyond 2017/18

- 4.7 Table 5 provides a summary of the financial outlook beyond 2017/18 with indicative funding and expenditure forecasts to 2021.
- 4.8 The PCF for operational activities need not increase within the period of the financial forecast. This is subject to delivery of the overall financial and other strategies for BSB and BC and PCF collection levels being maintained at 2017/18 levels ongoing.

- 4.9 The financial forecast shows that the operating results of the combined BC and BSB will begin to improve from 2019 as the financial benefits of the current investment programme and the office move, which should result in a smaller footprint and possibly current rental rates, begin to be felt.
- 4.10 As a result, the levels of reserves and free cash will tend to increase towards the established norms and targets. This change will provide more capacity for the organisation to absorb financial risk and so provides more freedom to consider reducing operating PCF in the future. Reserve levels would likely have to increase above three months cover (i.e. covering $\frac{1}{4}$ of the annual cost of the organisation) before this opportunity becomes low risk enough to consider.
- 4.11 Table 4 shows how we expect the designated reserves, for the DB scheme, will build over time. We anticipate the total PCF requirements for the DB scheme will fall in 2021, after the existing deficit is met. This milestone will allow for the building up of a fund towards the long term to eliminate the DB scheme altogether. Therefore, if PCF collections reach target each year, the fund will grow by £0.3M pa until 2021 and then by a possible £1.1M pa from that point, reaching a possible £2.3M by end of 2021/22.

Movements in Reserves

- 3.1 GCB reserves exist to provide a short term financial cushion for the organisation absorbing financial shocks including unplanned costs and unexpected falls in funding. They are also a strategic tool that enables GCB to exercise some control over short term pressures on PCF.
- 3.2 The Finance Committee (FC) of GCB monitors reserves levels and sets the policy for the level of reserves. The Finance Committee set a policy that the organisation should aim to hold reserves at 4 months of cover (ie to cover 4 months of typical operating costs in the financial year). The FC have reviewed the application of this policy in 2015 and agreed that the reserves are there to provide funding for the infrequent periodic expenses that arise over the long term including property moves and large investments.
- 3.3 The current level of reserves is projected to be 2.4 months cover in 2016/17 and has reduced from 3.8 months cover in 2014/15 due to unexpected sharp reductions in funding in 2015/16 and absorbing the DB pension scheme contributions of £493k in 2015/16 and 2016/17.
- 3.4 The FC have agreed that the current level of reserves is just sufficient to facilitate the current information system investment plans, the property move and to meet normal business working capital requirements.
- 3.5 Table 5 shows a forecast for the business including reserves. Reserve levels will reduce further in 2017/18 and 2018/19 to approximately 1.9 months cover following the cost increases associated with the c £1.5M investment into a new rented property in 2018/19. And the transition period before the benefits of the information systems investments are realised. Reserves will begin to be rebuild from that point.
- 3.6 The general reserves are separate from the proposed DB pension reserves. These are shown in Table 6.

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Table 5 Financial Outlook from 2017/18 Budget and beyond

Analysis of Reserves and Cash

	 Indicative forecasts					
		2016/17	2017/18	2018/19	2019/20	2020/21	2021/22
		Budget	Budget Plan				
PCF Collections (for BC and BSB operating costs)		10,441	10,276	10,276	10,276	10,276	10,276
PCF Fee Increase towards DB Scheme			1,300	1,300	1,300	1,300	1,100
LSB & OLC Fees		787	768	768	768	768	768
Total PCF Collections expected		11,228	12,344	12,344	12,344	12,344	12,144
PCF Paid to LSB/OLC		(787)	(768)	(768)	(768)	(768)	(768)
PCF transferred to designated fund		0	(1,300)	(1,300)	(1,300)	(1,300)	(1,100)
PCF retained for BC & BSB operations		10,441	10,276	10,276	10,276	10,276	10,276
Non PCF Income	Bar Council	2,423	*2,524	2,574	2,574	2,574	2,574
	BSB Fees and Charges	947	888	829	779	779	398
	Inns Subvention	250	0	0	0	0	0
	Subtotal Non PCF Income	3,620	3,412	3,403	3,353	3,353	2,972
Expenditure	Bar Council	3,848	3,745	3,743	3,782	3,821	3,861
	BSB	5,213	5,212	5,146	5,096	5,162	4,978
	Shared Overheads	5,171	4,914	5,232	4,640	4,304	4,304
	Subtotal Spend	14,233	13,870	14,120	13,518	13,287	13,143
	Operating Surplus	(171)	(182)	(441)	111	342	105
Opening Reserves		3,508	2,844	2,661	2,220	2,331	2,673
	Operating Surplus	(171)	(182)	(441)	111	342	105
	DB Pension Charges	(493)	0				
Closing Reserves		2,844	2,661	2,220	2,331	2,673	2,778
	Months of Cover	2.4	2.3	1.9	2.1	2.4	2.5
	<i>Target</i>	4.0	4.0	4.0	4.0	4.0	4.0
Adjustment for non cash items of capital spend and depreciation		(460)	345	95	545	545	545
Net Cash Inflow	(Surplus plus Adj)	(632)	163	(346)	656	888	650
Opening Cash		12,716	12,084	12,247	11,901	12,557	13,445
Closing Cash		12,084	12,247	11,901	12,557	13,445	14,095
Free Cash (Uncommitted Cash)		1,668	1,831	1,485	2,141	3,029	3,679

* BC income includes new income from Inns of Court towards BC activities.

Table 6

Summary of Designated Reserves - DB Scheme

Opening Balance		0	0	300	600	900	1200
	PCF Contributions received	0	1,300	1,300	1,300	1,300	1,100
	Payments to DB Scheme	0	(1,000)	(1,000)	(1,000)	(1,000)	0
Closing Balance		0	300	600	900	1200	2300

Approved BSB Budget

4.16 The total BSB budget is combination of direct costs of BSB and indirect costs: a share of the organisation's shared overhead and support costs. This is shown in Table 7 compared against 2016/17's latest forecast.

Direct Costs

4.17 The BSB Board approved the 2017/18 budget bid and agree that it is entirely consistent with the approved strategic and annual business plans for the BSB. The budget proposals were scrutinised in detail by the BSB Planning, Resources and Performance Committee. The subsequent regulatory budgets were presented to Finance Committee and Bar Council and were approved without amendment.

4.18 The BSB business plans are published on the BSB website. The 2017/18 plan will be the second year of the 3-year strategic plan period; it will include reference to the budget and will be published on the BSB website in March 2017.

4.19 The direct expenditure controlled by BSB will be £5.2M; £4.4M staffing and £0.8M non-staffing, and is level with 2016/17's budget plans. Headcount is expected to settle at 82 in 2017/18, a reduction on the opening headcount of 84 in 2016/17. We estimate that £3M of shared overheads will be allocated to BSB, lower than the 2016/17 budget and leading to an overall reduction for 2017/18 against 2016/17.

4.20 BSB expects to raise £0.9M (£1.2M in 2016/17 budget) of non-PCF funding. This funding is used to offset the amount of PCF that needs to be applied for regulatory purposes. The level of non PCF funding is lower than in prior years as a stream of income, the Inns Subvention contribution, has been phased out over several years.

4.21 As described above, this budget is for the second year of the three-year BSB strategic plan and demonstrates BSB's strategic commitment to maintain the baseline of its direct operating costs, whilst striving for value for money, efficiency and cost reduction where possible.

4.22 The BSB expenditure plans include the following changes in 2017/18:

- Resourcing the implementation of the Future Bar Training programme with additional fixed-term contract resources.
- Implementing the Governance Review's demands for improvements in staff capability and capacity.
- Support for a broad programme of research and policy work in regulatory areas.
- An enhanced communications and stakeholder engagement strategy which includes more consumer events and consumer research.

Indirect Costs

4.23 The high level plans for the overhead functions shared between Bar Council and BSB were identified. These plans include the costs of staffing, operations, capital expenditure plans in support of the strategic plans for both organisations.

4.24 These costs are apportioned between the regulatory and representative functions to form an overall budget for BC and BSB for the purposes of determining the PCF allocation.

BSB Budgets 2017/18

Table 7 - Bar Standards Board 2017/18 Budget Analysis

	2016/17 Fcst	2017/18 Budget
PCF	6,745	7,245
Inns Subvention	250	-
Fees and Charges	1,050	888
Subtotal Funding	8,045	8,133
Governance, Exec, Support & Comms	1,355	1,509
Strategy and Policy.	1,035	984
Supervision and Authorisations.	1,409	1,404
Enforcement.	1,207	1,315
Subtotal	5,005	5,212
Shared Overheads	3,200	3,043
Total Spend	8,205	8,255
Surplus/(Loss)	(160)	(122)

BSB Forecasts to 2020/21

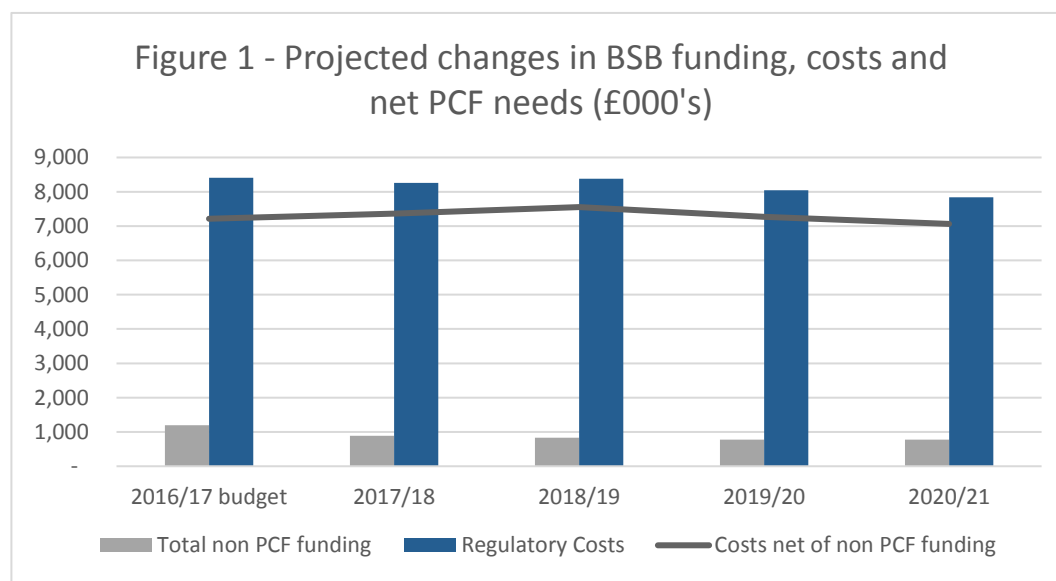
4.25 The BSB financial forecast through to 2020/21 (Table 8 and Figure 1) shows a reduction in total PCF needs (against 2017/18) of 4%. This is driven by a reduction in direct regulatory costs as the BSB strategy (down 2%) and the benefits from inward investment to reduce the support overheads are realised (down 10%). These costs reductions are partially offset by lower non-PCF fees, which currently help to reduce the total PCF burden.

4.26

Table 8 – BSB Financial Forecast (£000's)

	2016/17 budget	2017/18	2018/19	2019/20	2020/21	Change vs 2017/18
Fees and Charges	947	888	829	779	779	
Other Income	250	-				
Total non PCF funding	1,197	888	829	779	779	-12%
BSB Direct Costs	5,213	5,212	5,146	5,095	5,095	-2%
Shared Overheads	3,200	3,043	3,237	2,953	2,748	-10%
Regulatory Costs	8,413	8,255	8,383	8,048	7,843	-5%
Costs net of non PCF funding	7,216	7,367	7,554	7,269	7,064	-4%

Note: The increase in costs in 2018/19 is driven by the project costs of the move to new office facilities (estimated at £1.5M).



Approved Bar Council budget 2017/18

4.27 The budgets of Bar Council include those of the representation function, the activities and roles of the Approved Regulator, the Services function, which provides optional & value added services to the profession and the representation function, and a share of the overheads and support costs for the business.

4.28 The direct expenditure budget of Bar Council (BC) will be £3.7M (£3.8M); £2.6M staffing and £1.2M non-staffing, and is £0.1M lower than 2016/17's budget plans. Headcount is planned to be 3 lower than 2016/17 plans. We estimate that a further £1.9M (£2.0M) of shared

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overheads will be allocated to BC. The planned Representation budget is £0.1M higher than the 2016/17 budget and reflects the internal transfer of £0.2M staffing resources; previously commissioned to support the representation functions activities; from the Services function in November 2016.

4.29 Total funding for Bar Council will drop to £5.6M (£6.1M). The Services function will raise £2.3M (£2.4M in 2016/17 budget) from Bar Representation Fee (BRF) subscriptions and other services; the surpluses from these activities are used to both reduce the PCF burden and to enable BC to undertake activities outside of permitted purposes. A further £0.3M of funds will be applied from third parties towards representation activities.

4.30 The 2017/18 budget proposals for the Bar Council are shown in Table 9 below and are reproduced to assist with the s51 split in table 12, page 29.

Table 9 - Bar Council 2017/18 Budget Analysis

	2016/17 Budget	2017/18 Budget
PCF	3,696	3,031
Representation Income	22	250
Fees for Services to the Profession	2,401	2,274
Subtotal Funding	6,119	5,555
Corporate	1,123	1,245
Equality, Diversity & CSR	132	169
EU Law	103	100
International	276	285
Law Reform & Regulatory Issues	205	122
Legal Affairs, Practice & Ethics	213	317
Remuneration & Employed Bar	172	173
Communications	287	284
Representation Direct Costs	2,511	2,695
Shared Overheads	1,426	1,295
Subtotal Representation	3,937	3,990
Costs of Services	1,318	1,050
Shared Overheads	608	576
Total Services	1,926	1,626
Subtotal Direct Bar Council Costs	3,829	3,745
Shared Overheads	2,034	1,871
Surplus	(256)	(60)

BC Forecasts to 2020/21

4.31 BC has projected its costs and funding through to 2020/21 (Table 10) building on its strategic plan.

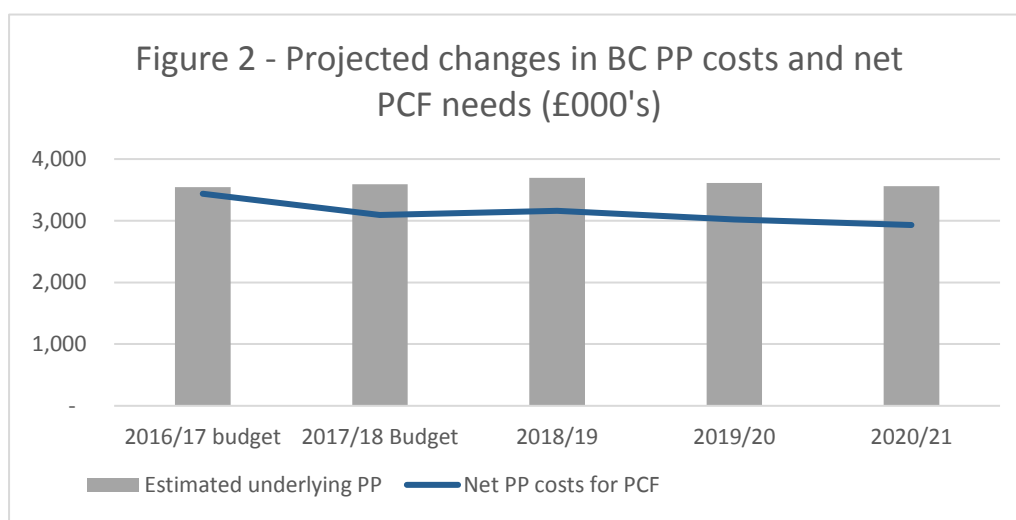
4.32 These forecasts, show that the PCF needs in 2020/21 reduce by 5% on the PCF for 2017/18. The drivers for this reduction in PCF are:

- 1% cost reductions in the underlying representative costs arising from lower overheads
- A 14% increase in other sources of funding including income growth and improvements in margins.
- A £1.5M investment in property in 2018/19 and 2019/20, resulting in an increase in shared overheads and total permitted purposes costs in 2018/19.

Table 10 - BC Representation Financial Forecast (£000's)

	2016/17 budget	2017/18 Budget	2018/19	2019/20	2020/21	
Representation Costs	3,894	3,990	4,104	4,013	3,955	-1%
Estimated Non PP	389	399	410	401	395	-1%
Estimated underlying PP*	3,504	3,591	3,694	3,611	3,559	-1%
Other funding for non PP and PP costs.	499	898	941	990	1,024	14%
Net PP costs for PCF	2,920	3,108	3,157	3,034	2,954	-5%

*Assumes Permitted Purpose costs remain at the 2017/18 (90%) to total representation costs.



5. PCF Drivers: LSB and OLC recharges 2017/18

- 5.1 The forecast costs for 2017/18 are £19k lower than those for 2016/17, a difference smaller than the PCF contingency range. Therefore no changes to PCF levels are necessary for this budget element.

6. Financial Risk & Mitigation Steps

6.1 The main budgetary risks are on PCF collection levels and uncertainty with most other forms of income.

Key Risks on PCF Collection levels

6.2 PCF collections levels cannot be forecast precisely and there is uncertainty in both the number of barristers that will seek renewal and in the income band that they will select, which affects the fees paid.

6.3 GCB is unable to predict precisely the number of barristers seeking certificates as this forecast is affected by the personal choices barristers make at that time, for instance, to retire, suspend their practise or to return to it after absence. Based on historic trends, the number of practising certificates expected to be issued has been forecast at 15,800 (15,600 in 2016). This is consistent with the growth rate of membership of the profession over the past three years.

6.4 GCB has researched the trends of fee earned within the self-employed and employed Bars and identified that fee levels have risen approximately 3% over the last 12 month period. However GCB has discounted this at this time pending further modelling of the relationship between fees earned and income bands declared: similar data in 2015 predicted an increase in PCF which failed to materialise in 2016. Further research is required to develop and interpret models to understand the impact of changes to earnings at the Bar on PCF collections.

6.5 The PCF forecasts have therefore used the 2016 income band declarations profile, applied to the forecast number of barristers, as the basis of the 2017 PCF forecast (Table 3).

6.6 Other sources of funding present financial risks:

- Non-PCF regulatory fee income for waivers and charges is demand led and difficult to predict. BSB have mitigated against this by working to the low side of the range of estimates.
- The financial effects of commercial income risks (arising mainly in Services activity) are mitigated by the imposition of a 5% cost reduction contingency target built in to the business planning process as well as pre-planning responses to reductions in Services income.

6.7 Unforeseen costs may arise from external sources including government activity or legal action.

Financial risk mitigation

6.8 GCB maintains financial reserves in order to fund working capital, investments and to provide a financial damper to smooth or cushion financial impacts. GCB operates a reserves policy to maintain sufficient reserves for these purposes.

6.9 Shortfalls in PCF funding may, at Bar Council's discretion, be met by:

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- designated PCF reserves;
- General reserves;
- cost reductions targeted at non-Permitted Purposes activities (enabling more commercially driven surplus to be put towards permitted purposes activities); or,
- Cost reductions applied to Permitted Purposes activity (including its support costs) to reduce the need for PCF funding as agreed with BSB.

6.10 Shortfalls in non-PCF funding may be met by general reserves, cost reductions in non-permitted purposes areas.

7. Setting and Managing Budgets 2017/18

7.1 The following section describes the steps in the Bar Council budget setting process and includes the independent and parallel process followed by the BSB. These processes have remained consistent with previous years.

Building the budget

7.2 It is the Chief Executive's responsibility as Accounting Officer, to ensure that an annual budget is drawn up for each financial year. This responsibility is discharged through the Director-General of the BSB and other Directors, supported by the Director of Finance.

7.3 Annual expenditure is driven by regulatory (BSB), Approved Regulator and representative objectives as articulated in their respective strategic and business plans.

7.4 The budget setting process for the 2017/18 budget followed a pattern similar to that for previous years and the overall controls set out within the Finance Manual remain unchanged.

7.5 The regulatory budget was prepared to align with the Strategic Aims set out in the BSB's Strategic plan for 2016-19. This high level plan informed the broad activities expected to be delivered in 2017-18 which in turn informed the resourcing envelope. This bid was scrutinised by the BSB Planning, Resources & Performance (PRP) Committee and the bid was approved by the BSB Board in September 2016.

7.6 In October 2016, the joint Finance Committee (FC) agreed the parameters of an overall high level budget that met all of the regulatory needs and the combined organisational financial provisions required in the medium term. This budget included:

- Stable and flat future PCF collections at levels forecast for 2017/18.
- Growth in Bar Council representation income and earnings from services to members;
- Maintaining future real costs at 2017/18 levels with contingency plans to reduce if PCF collections fell.

7.7 The proposals were passed to the Bar Council for approval at their meeting in November 2016 and consultation with the profession started shortly afterwards. That consultation completed on 5 December and the results are shown in Section 6.

Next steps in budget setting

7.8 The high level budgets represent limits on resources and spend for the next stage of detailed planning. Detailed cost centre budgets will be set by relevant managers alongside their operating plans to fit within the agreed financial envelope. These plans include contingency plans to mitigate against the risk of shortfalls in income. This planning process ends in February 2017 with review meetings between the Executive and Directors to scrutinise the detailed budgets.

7.9 In parallel with this, the BSB maintain a continuous review of their financial needs and will present any revisions to the budget for review by BSB committees and consideration for approval by the Finance Committee.

7.10 The combined detailed budget package will be brought to Finance Committee for review in February 2017. The Finance Committee may refer back any parts of the budget to relevant parties for further consideration.

Budgetary control

7.11 The budgetary control measures are laid out in the Finance Manual and are implemented by the Director of Finance, working with the Director General of the BSB, PRP, and other members of the Bar Council Executive. The Treasurer exercises overall budgetary control. The Officers, Chief Executive, Director-General and Directors have overall responsibility for the control of funds within their budgetary allocations and for the financial control and formal approval of expenditure.

7.12 Each budget holder has the responsibility for monitoring expenditure and delivery of non-PCF income, keeping his or her respective line manager fully informed of current spending and, in advance, of any future commitments or proposed activity likely to lead to budget allocations being exceeded. All orders and liability to incur expenditure must be made within approved levels of delegated authority and in accordance with approved policies.

7.13 The policy with regard to over spending, under-spending and virement is detailed within the Finance Manual. Those policies are consistent with those presented in prior years and so are not reproduced here.

8. PCF and budget consultation and response

Consultation Process

8.1 These PCF proposals and supporting explanatory materials were put before the profession for 4 weeks between 8 November and 5 December 2016.

8.2 The consultation exercise built upon the lessons learned from consultations in previous years:

- We presented to and discussed the budget proposals with The Bar Council, the elected representatives of the profession drawn from specialist Bar associations, Inns of Court, circuits and others, on 5 November 2015.
- Additional briefing material was provided to the Bar Council members and heads of specialist Bar associations to enable them to brief their respective constituents on the details in meetings that followed.
- We prepared and published papers describing the PCF proposals and the annual budget proposals on our website drawing attention to them in the regular communications with the profession. These communications had a total circulation of over 31,000.
- We provided a survey linked to the consultation to facilitate both structured (ie yes/no) and free text responses from the profession.

8.3 In addition, two legal press sites, The Law Society Gazette and Legal Futures, reported on the consultation details including the pension deficit and the funding proposals, so providing additional publicity within the profession.

Consultation Responses

8.4 The 115 members of Bar Council approved the proposals unanimously. The minutes of this meeting are available on the Bar Council website.

8.5 Thirteen (21 in 2015) survey responses were received and all endorsed the action proposed by Bar Council. No responses offered alternatives to funding the scheme in other ways.

8.6 Bar Council has considered the responses and has made no changes to its PCF proposals.

9. Allocation of PCF to non-regulatory Permitted Purposes activities

Introduction

9.1 We have reviewed the representational activities of the Bar Council to determine the extent to which these fall within the Permitted Purposes described by section 51 of the Legal Services Act 2007 and so may be funded by PCF.

9.2 The rationale set out here has been taken into account in the budget setting process.

Outcomes

9.3 The Bar Council representative function supports the Permitted Purposes including s51 (4) a), c), d), e) and f). As well as work delivered by Bar Council staff, work is also carried out by barrister led committees and/or working parties and panels in specialist areas supported by our staff working through six core teams. Descriptions of these activities are included in this section on pages 24-28.

9.4 . A proportion of the staffing resource within the representation teams supports non Permitted Purposes activity and so needs independent funding. Table 11 shows the proportion of representation team resources applied towards each Permitted Purpose and Table 12 shows the value of the relevant budget proposals analysed between Permitted and other purposes. Direct costs for activities of the Services function that are outside of Permitted Purposes are budgeted for separately and analysis of this is outside the scope of this paper

9.5 Bar Council has chosen to restrict the amount of PCF that we are prepared to seek for representation purposes and so has funded some Permitted Purposes activity, that otherwise may be funded by PCF, by other means including surpluses from commercial activity and the Bar Representation Fee. The value of these is shown as other income or as a cross subsidy in Table 12.

Description of Representative Activity by Function

Equality, Diversity and Corporate Social Responsibility

9.6 This work of the Equality, Diversity and Corporate Social Responsibility team covers:

- Matters to do with the 'training' and 'education' of barristers and those wishing to become barristers (section 51(4)(a));
- Promoting the objectives of the Equality Act 2010 to which the Bar Council as an approved regulator is subject including:
 - 'advance equality of opportunity between people from different groups' (section 51(4)(a)(ii));
 - 'eliminate unlawful discrimination and other conduct prohibited by the Equality Act'
 - 'Advance equality of opportunity between people from different groups'.

- Promoting equality and social mobility including specific work with the Social Mobility Foundation's Annual Placement Scheme, work with the Inns of Court, work with the Sutton Trust, the 'Speak Up for Others' programme and the Bar Council's Pupillage Gateway Service & significant support for the National Bar Mock Trial Competition.

Outside of permitted purposes

9.7 Up to 10% of the time of the relevant team is allocated towards supporting Pro Bono activity, Wellbeing, Silk & Judicial Mentoring and Social Mobility projects.

European Activities (Brussels)

9.8 The Bar Council maintains effective two-way communication between the institutions of the European Union and the Bar Council. This work is led by the Bar Council's EU Law Committee. These arrangements enable the Bar Council to:

- Capture the output of the EU institutions that might have a bearing on the reform and development of English and Welsh law, the administration of justice in England and Wales and the consumer as well as the public interest.
- Draw attention to EU-wide consultation exercises and related initiatives.
- Communicate the views of the Bar of England and Wales on a wide range of legal matters affecting the development of EU law and justice including matters of family law, administration of estates, contract law and IP.

9.9 All activities are considered to be within Permitted Purposes.

International

9.10 The International Team serves to advise the Bar Council on international developments of relevance to the Bar, to promote the interests of the Bar to international organisations and other legal professions and to lead the support of the international rule of law. It also acts to maximise international business opportunities for the Bar.

- To provide policy expertise and intelligence to the organisation across the range of international interests of the Bar including trade, rule of law and international issues.
- To ensure that the Bar and the Bar Council's positions are effectively put forward in international organisations (e.g. the Council of Bars and Law Societies of Europe and the International Bar Association)
- To support the development of the international rule of law by interesting and engaging the profession in relevant activities (e.g. through lectures and other educational means) and by providing Bar expertise to bar associations and other lawyers' organisations overseas (e.g. by taking part in capacity building and other training projects abroad, whether alone or with partners like the British Council or Royal Commonwealth Society).

Outside of permitted purposes

9.11 On occasion the activity has an ancillary purpose to create opportunities for business development including initiating international business development projects, overseas marketing missions, organisation of or attending business conferences, promotional publications or networking events with incoming delegations of foreign lawyers. These activities generate fees which pay for the incremental costs arising and may also subsidise the permitted purposes activity. Overall, up to 20% of the resources of the International function are funded by other sources.

Law Reform and Regulatory Issues

9.12 The Regulatory Issues and Law Reform team is responsible for engaging with the approved regulators on issues that affect the profession. The main areas of work include the following, all of which fall within the Permitted Purposes:

- Education and provision of leadership to the profession on key regulatory changes. These include communication with LSB and BSB, the monitoring of changes to the regulatory environment for barristers and chambers and educational work on practical issues on establishing entities, and in future Alternative Business Structures.
- Monitor and respond to consultations that impact on the administration of justice. This includes coordination of Law Reform Committee (LRC) led responses to consultations on legislative matters, coordination of surveillance and privacy working group and sentencing working groups, both of which influence legislation, contributions of LRC to the Law Commission's programmes of law reform, raising awareness of current law reform issues through its annual lecture delivered to some 200 law students, barristers and judges and, fostering an interest in law reform amongst law students and aspiring barristers through LRC's annual law reform essay competition.

Legal Affairs, Practice and Ethics

9.13 The Legal Affairs, Practice and Ethics team leads on policy relating to legal affairs and practice, including issues focused on access to justice and the administration of justice. The team also leads on policy and services related to the Bar's ethical standards and obligations, which includes management and provision of the Ethical Enquiries Service. The team leads on issues which are of particular interest or relevance to the young Bar.

Outside of permitted purposes

9.14 Some activities are considered as falling outside of Permitted Purposes:

- Organising and hosting Young Bar wellbeing seminar & annual dinner
- ADR market research

- International weekend
- Lobbying government and BSB on issues where the interests of the Bar are involved

9.15 Up to 10% of the resources are engaged in this work and so 10% funding is sought outside of PCF.

Remuneration and the Employed Bar

9.16 The Bar Council Remuneration and Employed Bar Team include working:

- To further the interests of all barristers to ensure that they are paid fairly for the work that they do
- To enable access to justice, through legal aid or other funding arrangements (for example, investigating the viability and case for establishing a Contingent Legal Aid Fund)
- To assist the Employed Bar with its particular needs

9.17 All of this activity is considered within Permitted Purposes.

Communications Function

9.18 The work of the Communications function includes:

- Activities on behalf of the Approved Regulator function and complementary to the BSB regulatory communications function.
- Support for the public and consumer interest including the promotion of standards and good practice, publicising practical guidance, promoting entry to the Bar, advocating greater social responsibility by the Bar (in particular working in conjunction with the Inns of Court and government in relation to the 'social mobility agenda'), publicising training events and pro bono work and supporting the promotion of events such as the Schools Mock Trial competition.

Outside of Permitted Purposes

9.19 Some activities undertaken are similar to the lobbying of government, opinion-formers and others in the interests of both the Bar and the public interest. For that reason, 20% of the activities and resources are funded independently.

Corporate Function

9.20 This consists of the leadership and support of the Approved Regulator and the representative function. Some part of this activity is consistent with the management of commercial business activity and so outside of Permitted Purposes. Up to 10% of the total costs are funded independently.

Table 11 – Proportion of representational activity that is for Permitted Purposes

Representative Function Area	Regulation, accreditation, education & training of authorised persons	Maintaining and Raising of professional standards	Practical Advice and support on practice management	Law Reform and related legislative process	Promoting the protection by law of Human Rights and fundamental freedoms	Promotion of relations between AR and national, international bodies, governments or legal reps	Permitted Purposes Subtotal	Not in scope of pp
	51(4)(a)	51(4)(i)	51(4)(a)(ii)	51(4)(c)	51(4)(e)	51(4)(f)	(Max 100%)	Other
<i>Equality, Diversity & CSR</i>	30%	30%	30%				90%	10%
<i>EU Law</i>						100%	100%	
<i>International</i>						80%	80%	20%
<i>Law Reform and Regulatory Issues</i>	15%	15%	15%	40%	10%	5%	100%	
<i>Legal Affairs, Practice and Ethics</i>	10%	30%	30%	15%		15%	90%	10%
<i>Remuneration & Employed Bar</i>	15%	15%	15%	50%		5%	100%	
<i>Communications</i>	20%			30%		30%	80%	20%
<i>Corporate</i>	15%	15%	15%	15%	15%	15%	90%	10%

9.21 When preparing the Bar Council Representation costs budget, we have apportioned the total costs of the various functions between Permitted and other purposes according to the descriptions in section 9, summarised in Table 11. The value of this apportionment is shown in Table 12 along with the application of funding.

9.22 In 2017/18, the level of PCF applied to Bar Council representative permitted purposes activities falls to £3,031k (down 18%) due to increased application of other non PCF funds to offset a 1% increase in spend. Bar Council has chosen to limit the amount of PCF that is sought and has applied funding from other sources towards Permitted Purpose activities.

- the total costs of representation will be £3,990k (up 1%, £53k on 2016/17 budget value of £3,937k).
- The element that is permitted purposes is £3,588k (up 1%, £35k on 2016/17 budget of).
- The application of non-PCF income increases to £495k (£373k 2016/17) following the increased use of non-PCF funds to support permitted purposes activities.

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Table 12 - Allocation and Funding Summary

888	-	Regulation (BSB)	Representation	Services	Total
Total costs breakdown by source					
Direct Costs		5,212	2,695	1,050	8,957
Share of Resources Group		3,043	1,295	576	4,914
Contribution/(Loss)		0	0		0
Total Spend - Funding Required		8,255	3,990	1,626	13,871
Analysed between		Regulatory	Other		
Type:		Permitted	Permitted	Other	
		Purposes	Purposes	Purposes	
Permitted Purposes		8,255	3,588		11,843
Not Permitted Purposes				402	2,028
		100%	90%	10%	13,871
Fund					
Support costs					
PCF		7,245	3,031	0	10,276
Direct Income					
Regulatory Fees & Charges		888			888
Services To Members				2,117	2,117
Other Contributions			250		250
Other Administrative Income			0	157	157
Subtotal Direct Income		888	250	157	3,412
Cross Subsidy from					
Services to		0	245	200	
Members				(445)	0
Total Funding		8,133	3,526	357	13,688
Surplus/(Loss)		(122)	(61)	(45)	(183)
Analysed between					
source:					
Permitted Purposes		(122)	(61)		(184)
Not Permitted Purposes				(45)	1

10. Social Impact Assessment

- 10.1 We have considered the impact of the change in PCF on different component groups of the Bar.
- 10.2 The 12% increase in fee levels has been applied to all income bands. In theory this has a disproportionately larger affordability impact on those in lower income bands against the higher bands. With BAME, disabled and female barristers representing a statistically greater proportion of those lower income bands than their overall representation within the profession, there may be a perception that those groups would be affected more significantly than other areas.
- 10.3 The absolute value of the increase for the lowest two incomes bands is £1 or £2 per month (£12 and £26 per annum respectively) and so is not regarded as a significant cost increase. Therefore, we consider that there is a marginal adverse diversity impact of the change in PCF.

11. Next steps and communication with the Bar

- 11.1 Each year, in February and March, barristers needing a practising certificate are required to apply for one and pay the PCF. The Bar Council and BSB have a joint plan in place to communicate with Barristers and Chambers administrators to ensure that they have the information they need about the Authorisation to Practise (AtP) process.
- 11.2 The communication plan is underway from November and will continue through post, email and social media channels up to and beyond the opening of the AtP process on 1 February 2017.

David Botha
Director of Finance
Bar Council
December 2016