GCB Response to LSB Question – PCF application 2017/18

LSB: *We recognise that the Bar Council has responsibilities as the employer in respect of the pension fund deficit but it has resulted in significant increase in the PCF for those who you regulate. It would greatly help our understanding and assessment of the application if you could provide information on the other options that were considered. For example, did you consider applying increases to the other types of fee that are charged to increase the income?*

1. Introduction

   1.1. The General Council of the Bar (GCB) considered and rejected several alternative funding mechanisms to address the needs of the defined benefit pension scheme (DB scheme) before agreeing the final PCF proposals made.

   1.2. The range of options considered included establishing a lower contribution to the pension scheme fund, investigating other non PCF sources of funding to fund or eliminate the scheme through a buy out and reductions in GCB operating costs to meet the scheme's needs.

2. Setting a lower PCF increase increased the risk of higher costs of the pension scheme over the long term, exposed the organisation to other regulatory risk and risked a shortfall in funding for other permitted purposes.

   2.1. The agreed level of pension contributions at £1m was established to provide adequate short term funding for the pension scheme and an opportunity to eliminate the scheme in the medium term, well before the youngest members might retire in 35+ years. The additional PCF to be collected of up to £1.3m was established to ensure there was confidence amongst the Trustees and GCB that payments could be met, even with a modest downturn in PCF collection levels, and it addressed GCB's auditors requirements that there be some contingency against future adverse movements in the scheme's valuation. We obtained independent actuarial advice from a leading actuarial firm which endorsed the approach proposed.

   2.2. Payment levels below £1m were rejected as likely to lead to a higher level of total costs over a longer period and low levels of payments were unacceptable to the Trustees. These lower contributions would very likely lead to a persistent or increased deficit value at the next triennial valuation and does not allow for contributions towards the long term costs of the scheme. An adverse outcome at the 2018 valuation will lead to a demand from the scheme trustees for increased contributions and, given the shorter timescales available for additional cash investments to be effective before the pension liabilities matured, these revised contributions would need to be higher than the level proposed now.

   2.3. A reduction in the margin between contribution and PCF collections increases the risk of a shortfall in PCF available for other permitted purposes. The GCB has entered into a binding agreement with the trustees, subject to statutory rules enforced by the Pensions Regulator, which demands adherence to the recovery plan payments or risk regulatory sanction. In the case of a shortfall in PCF collections therefore, funding priority would

have to be given to meeting the statutory obligation of a minimum payment towards the DB scheme over other in-year PCF needs.

3. Sourcing a lump sum to fund DB scheme is impractical.

   3.1. GCB considered accelerating the PCF collection through a significantly higher fee to collect the same sum over a shorter time period but rejected the option as being too high a burden on practitioners in the short term and provided no long term solution. The cost of a buyout at over £16m was considered to be too high and very poor value.

   3.2. GCB would be unable to raise a lump sum from financial institutions in the form of debt in the time available. This option would require significant changes to its constitutional structure and there was little expectation of an offer being attractive in the financial markets under current conditions.

4. There are significant restrictions on the effective use of other sources of income to fund or part fund the scheme which render that option infeasible.

   4.1. BSB Fees and Charges income is unsuitable as a means to fund a fixed annual contribution. The activity is demand driven and therefore unpredictable. Total fee income is also expected to drop off sharply over the next few years as the scope of regulatory activity changes and so limits its strategic application. The long lead time on changes to fees arising from the need to consult means that the timing would not be suitable for 2017/18 contributions in any case.

   4.2. Other representative income is voluntary and price sensitive and so fee increases would be unlikely to raise sufficient additional funds.

5. Cost reductions would impose severe restrictions on the BSB and Bar Council's permitted purposes strategies and limit the organisations ability to invest internally to meet the future business needs.

   5.1. A range of options requiring PCF fee increases and permitted purposes cost reductions were considered to generate the £1m payment contribution and rejected. These arrangements did not provide sufficient certainty on creating a £1m cash fund consistently over time without compromising the strategic needs of BSB and Bar Council. The level of cost reductions needed to achieve this would have limited the resources applied to permitted purposes activities for several years and halted the ongoing investments into infrastructure necessary for effective regulation. The BSB opposed those cost reduction measures in principle. In addition, these proposals did not meet the longer term funding needs of the DB scheme in order to eliminate the scheme, nor the auditor requirements to have some contingency funding to address short term fluctuations in the DB scheme valuation.

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January 2017