



**General Council of the Bar**  
**PCF Application and Budget Submission 2019/20**

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The General Council of the Bar  
2019/20 PCF submission and Bar Council & BSB budget

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## Summary

### Practising Certificate Fees (PCF)

- The 2019/20 General Council of the Bar (GCB) PCF funds four activities:
  - The s51 permitted purposes operating costs of the Bar Council and Bar Standards Board;
  - The LSB/OLC recharges for 2018/19, and
  - Funding for the defined benefit pension scheme deficit recovery plan.
  - The Property Project to secure new leases following the expiry of leases for the current premises in March 2019/20 (total £1.5M, £1.3M funded through PCF).
- PCF collections are forecast to be £14.9M in 2019 and will be allocated according to the table below:

**Table 1**

	2017/18 Actuals	2018/19 Budgeted	2019/20 Proposed
Permitted purposes (Bar Council & BSB)	10,790	11,423	12,793
LSB/OLC Levy	718	791	827
Legacy DB Pension Scheme	1,300	1,300	1,300
<b>Total</b>	<b>12,808</b>	<b>13,514</b>	<b>14,920</b>

### Key Features of the GCB budget proposition

- The PCF income will be used to fund Bar Council and BSB activities as follows:
  - Bar Council representative permitted purposes will be £3.5M (£3.0M 2018/19 budget). 2019/20 direct costs will increase to £3.9M (up £205k, 5.5% on 2018/19).
  - BSB regulatory costs (all permitted purposes) will be £8.4M (£7.2M 2018/19 budget). Other regulatory funding is down £0.1M to £1M (£1.1M 2018/19 budget). 2019/20 direct costs will increase to £5.5M (up £263k, 5% on 2018/19).
  - The Capital spend, £2M, (Property and other capital projects) with £1,775k, funded through permitted purposes (£1.3M property and £0.4M other).
- Other PCF allocations remain consistent with the latest LSB/OLC forecasts and the defined benefit pension scheme deficit recovery plan approved in 2017.

## Proposed Practising Certificate Fees 2019/20

### Arrangements for setting Practising Certificate Fees

5. Since the change from charging PCF based on years of call to gross earnings in 2015 (which was supported by a 2/3rds majority of the profession in consultation), there have been two general rises in PCF. In 2015 there was an increase in the PCF of 1.25%. In 2016, there was a larger increase of 12% to cover the defined benefit pension liability, which remains ringfenced for that purpose.
6. Inflation over the same period (2015-2019) has had/is predicted to have a cumulative effect of 10.4%. This has been managed by cutting costs, but we have reached a point at which this is no longer possible without making material cuts in output.
7. The current PCF Bands and fees are shown below. The table reflects the percentage of earnings the fee represents at the top of the Band. To put this in context, though, in Band 1, a barrister earning £15,000 would be paying 0.82% of earnings, a much higher ratio than practitioners earning more, even in the same band.
8. Table A

Current

Income Band	Band	2018 fees £	Fee as % of top of the band
0-30,000	1	123	0.41%
30,001-60,000	2	246	0.41%
60,001-90,000	3	494	0.55%
90,000-150,000	4	899	0.60%
150,001-240,000	5	1,365	0.57%
240,001>1,000,000	6	1,850	0.19%

9. Introducing Bands 7 and 8 at the top end, and a small reduction for Band 1, would have the following effect:

Table B

Proposed

Income Band	Band	2018 fees £	Fee as % of top of the band
0-30,000	1	100	0.33%
30,001-60,000	2	246	0.41%
60,001-90,000	3	494	0.55%
90,000-150,000	4	899	0.60%
150,001-240,000	5	1,365	0.57%
240,001>500,000	6	1,850	0.37%
500,000>1,000,000	7	2,500	0.25%
>1,000,000	8	3,000	

10. In Band 8, the £3,000 fee is 0.3% of the earnings of a barrister declaring £1M, and this percentage reduces as earnings increase. This proposal is certainly not an attempt at redistribution of wealth but is a recognition of the increasing gap in earnings across the Bar

and of the pressures on those at the publicly-funded Bar, set against the minimum income requirements of the GCB. The percentages above are on earnings before tax and the fees are subject to tax relief, so the absolute financial impact is not as stark as the headline increases, and tax relief has a more beneficial effect on the net cost in the higher bands than it does at the lowest levels.

11. **Changing the PCF Reference Year.** The information requested from self-employed barristers to confirm their earnings for PCF assessment has so far been a year behind: the financial information for the 2018/19 PCF was based on the calendar year 2016. The reason for this was to assist forecasting by using Bar Mutual Indemnity Fund (BMIF) data to assess what the next year's PCF income would be. Now that we have improved data and analysis, this is no longer necessary. Changing the finance reference year means that self-employed practitioners will provide the same information to BMIF and the Bar Council for renewal of insurance and the practising certificate. This reduces the administrative burden for barristers and BMIF (who field calls from barristers about their previous declarations). It also helps to align earnings with the other declarations made at Authorisation to Practise (e.g. area of practice) which will assist future forecasting. There is no change for employed barristers who will continue to use their latest P60 (e.g. April 2017 for the current PCF year). Changing the reference year could bring in £40k additional income.
12. **Removing the residual Bulk Payment Discount.** The Finance Committee asked for some analysis of the likely impact of removing the Bulk Discount on the equitable treatment of Barristers. Self-employed barristers make up 82% of the barristers paying the PCF. Of those, 60.4% (8,011) received a discount last year. 71% of those in receipt of the discount are in band 4 or higher. The Employed Bar represents 18% of the total (2,990), with 43.6% (1,303) in receipt of the bulk discount. The different distribution is mainly due to CPS and Government employees usually being in bands 2 and 3. Removing the discount will not have an undue impact in the lower earnings bands: the financial impact ranges from £1.85 to £7.41 for those in Bands 1 to 3. The overall benefit to the Bar Council is the removal of an administrative burden (and, along with other changes, should lead to a reduction of one or two staff), and up to £140k of additional income (the amount foregone through the discount itself).
13. **Overall impact.** Using our forecasting model, it is estimated that the proposed changes could achieve the following additional income, covering the demands of the 2019/2020 budget proposal and assisting with funding the property project (£1.5M):

	£000's
Change in reference year	40
Removal of bulk discount	140
Band 7	497
Band 8	382
<b>Total</b>	<b>1,059</b>

14. The alternative to these proposed changes would have been an across the board PCF increase of over 7% to fund the same budget proposals. This would mean the Band 1 fee would rise to

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£132, instead of falling to £100; Band 3 would rise from £494 to £532; and Band 6 would rise from £1,850 to £1,992.

Table C

Income Band	Band	Current 2018 fees £	7.7% increase	Increase £
0-30,000	1	123	132	9.47
30,001-60,000	2	246	265	18.94
60,001-90,000	3	494	532	38.04
90,000-150,000	4	899	968	69.22
150,001-240,000	5	1,365	1,470	105.11
240,001>500,000	6	1,850	1,992	142.45

- The proposed changes will give the Bar Council a sustainable financial position for the next financial year and beyond. It is fully intended to move to 3-year financial planning, based on improved analysis; to improve non-PCF income; and to drive an efficiency programme looking at all costs and future potential commitments. These changes are aimed at ensuring that future demands on PCF are minimised. The property project will be a major capital cost over the next financial year and we have had to be mindful of cash flow and the maintenance of a minimum reserve.

## 2019 PCF Fees and Collection forecasts

16. We forecast that we will collect and use practising certificate fees of £14,920k as outlined in Table 2 below.

Table 2

<b>2019 Forecast</b>	<b>2019 Average PCF</b>	<b>Number of Barristers</b>	
	899.71	16,584	14,920,791
		<b>Total Forecast</b>	<b>Collection</b>
			<b>£14,920,791</b>
	<b>Breakdown of Usage</b>		
		<b>2018/19</b>	<b>2019/20</b>
		<b>Budget</b>	<b>Budget</b>
	BC & BSB Operating costs	£10,188,000	£11,920,791
	Capital Costs - property move	£1,235,000	£873,000
	LSB/OLC Levy	£791,000	£827,000
	Defined Benefit Pension Scheme	£1,300,000	£1,300,000
		£13,514,000	£14,920,791
	Contingency	£33,332	£0



## Allocation of PCF to Permitted Purposes

17. Table 3 below shows the allocation of PCF to regulatory and representative permitted purpose activities and to the shared property project.
18. All BSB activity is for permitted purposes.
19. All costs associated with capital expenditure and the property project have been allocated between permitted purposes and non-permitted purposes on the same proportional basis as operational costs.
20. In 2019/20, the level of PCF applied to Bar Council representative permitted purpose activities rises to £3,513k (up £545k, 18.3%, on 2018/19). Further details of the functional split of representative permitted purposes are shown on pages 18 to 25.
21. Costs of representation will be £4,142k (up £177k, 4.4% 2018/19 budget). The element of this that is permitted purposes is £3,748k (up £172k, 4.8% on 2018/19). The application of non-PCF income to permitted purposes reduces to £473k (up £28k, 6% on 2018/19).

**Table 4 - s51 Report on 2019/20 - Allocation of PCF to Permitted Purposes**

	Regulation (BSB)	Representation	Services	Revenue Total	Capital Spend & Property Project	Capital Spend & Property Project	Total Funding & Spend	
<b>Total costs breakdown by source</b>								
Direct Costs	5,474	3,069	839	9,382			9,382	
Share of Resources Group	3,017	1,073	347	4,437			4,437	
Project Spend	0	0		0	1,775	227	2,002	
<b>Total Spend - Funding Required</b>	<b>8,491</b>	<b>4,142</b>	<b>1,186</b>	<b>13,819</b>	<b>1,775</b>	<b>227</b>	<b>15,821</b>	
Analysed between Type:	Regulatory Permitted Purposes	Other Permitted Purposes	Other Purposes		Other Permitted Purposes	Other Purposes		
Permitted Purposes	8,491	3,748		12,240	1,775		14,015	
Not Permitted Purposes			394	1,186		227	1,807	
	100%	90%	10%	13,819			15,821	
<b>Fund</b>								
Support costs								
PCF	8,407	3,513	0	0	11,920	873	0	12,793
<b>Direct Income</b>								
Regulatory Fees & Charges	1,059				1,059			1,059
Services To Members				1,659	1,659			1,659
Other Contributions		250			250			250
Other Administrative Income		(0)	155		155			155
<b>Subtotal Direct Income</b>	<b>1,059</b>	<b>250</b>	<b>155</b>	<b>1,659</b>	<b>3,123</b>	<b>0</b>	<b>0</b>	<b>3,123</b>
Cross Subsidy from Services to Members	0	238	235	(473)	0	0	0	0
<b>Total Funding</b>	<b>9,466</b>	<b>4,001</b>	<b>390</b>	<b>1,186</b>	<b>15,043</b>	<b>873</b>	<b>0</b>	<b>15,916</b>
<b>Cashflow In/(Out)</b>	<b>975</b>	<b>252</b>	<b>(4)</b>	<b>(0)</b>	<b>1,224</b>	<b>(902)</b>	<b>(227)</b>	<b>95</b>
Analysed between source:								
Permitted Purposes	975	252			1,227	(902)		325
Not Permitted Purposes			(4)	(0)	(4)	0	(227)	(231)

## PCF Application: 2019/20 operating budgets for Bar Council and BSB

22. The operating budget proposals for the organisation as a whole are summarised below together with the forecast beyond 2019/20. Details of the Bar Council's and BSB budgets follow in separate sections.

## Budget Summary

23. The budgets in the previous two years were set as deficit budgets (£182k in 2017/18 and £400k in 2018/19): the shortfall being taken from reserves. Taken together with a shortcoming in the income this has led to a weakening of the financial health of the organisation. Going forward the GCB will be producing balanced budgets to promote fiscal responsibility and to live within its means.

## Expenditure

24. GCB plans for a £15.8M total expenditure budget for 2019/20, £644k higher than the 2018/19 budget level (Table 5). This will be funded by a combination of PCF and non-PCF income. We aim to deliver a balanced budget (total income / expenditure).

25. These plans allow the Bar Council and BSB to deliver their respective strategies within planned expenditure levels.

- BSB direct costs will increase by £263k and are consistent with the BSB strategic plan.
- Bar Council direct costs will increase by £205k and are consistent with the Bar Council's strategic plan.
- There will be small headcount reduction in BSB of five staff.
- Overhead costs will be £4,437k (net of depreciation) driven by non-recurrent costs linked to the financial improvement programme the running costs will then fall reflecting the savings and benefits to the organisation from efficiencies in processes covering; Finance, Procurement and CRM.

26. The organisation will secure new leases on our offices during 2019. The current leases come to an end in March 2019. Project costs of £1.5M have been ringfenced for this purpose.

Table 5 - 2019/20 Cash - Income & Expenditure Budget Proposals

	Bar Council	BSB	Total Revenue Income / Expenditure	Capital Spend & Property Project	Total Cash Income / Expenditure
PCF Income	3,513	8,407	<b>11,920</b>	873	12,793
Non-PCF Income	2,064	1,059	<b>3,123</b>	0	3,123
<b>Total Income</b>	<b>5,577</b>	<b>9,466</b>	<b>15,043</b>	<b>873</b>	<b>15,916</b>
Direct Costs	3,908	5,474	<b>9,382</b>	0	9,382
Overheads	1,420	3,017	<b>4,437</b>	2,002	6,439
<b>Total</b>	<b>5,328</b>	<b>8,491</b>	<b>13,819</b>	<b>2,002</b>	<b>15,821</b>
Cash In/(Out)	<b>249</b>	<b>975</b>	<b>1,224</b>	<b>(1,129)</b>	<b>95</b>

### Financial and PCF Outlook beyond 2019/20

27. Table 6 provides a summary of the financial outlook beyond 2019/20 with indicative income and expenditure forecasts to 2023.
28. The forecast PCF income indicates that an increase in PCF is unlikely to be required if the forecasts prove to be correct:
  - The level of PCF collected is forecast to be maintained at the 2019/20 level for the next three years. PCF declarations data will be reviewed after renewal in 2019 and the results used to inform decisions on PCF fees for 2020 onwards.
  - The Non-PCF income for the Bar Council has been forecast to grow at 2% due to the limitations of having an inherently small number of barristers to draw on.
29. The Income from BSB fees and charges has been kept level due to the uncertainty of the income stream in the transition to the Future Bar Training model.
30. Inflation increases of 2.5% have been applied to the overheads. Overheads are expected to reduce slightly over time, as the property project comes to an end and savings are made through the CRM and procurement programmes.
31. We expect the organisation to generate surpluses from 2020/21 that will be used to replenish the depleted reserves.
32. The reserves are forecast to increase over the period putting the organisation into a healthier financial position and giving a buffer if PCF income levels fall.

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**Table 6 - 2018/19 High level cash budget and indicative outyear proposition for GCB**

Values in £000's

	2017/18 Actuals	2018/19 Forecast	2019/20 Budget	2020/21 Indicative Fcst	2021/22 Indicative Fcst	2022/23 Indicative Fcst
PCF	12,627	13,065	14,920	14,921	14,944	14,988
BRF	986	864	810	826	843	860
Contribution from Inns	250	250	250	250	250	250
Other Bar Council Income	610	786	849	866	883	901
BSB Fees and Charges	1,469	1,478	1,059	1,060	1,060	1,061
Other Income	251	150	155	155	155	155
<b>Total Income</b>	<b>16,193</b>	<b>16,593</b>	<b>18,043</b>	<b>18,078</b>	<b>18,135</b>	<b>18,214</b>
Operating Spend	9,007	9,223	9,382	9,616	9,857	10,103
Overheads*	4,895	4,824	4,437	4,548	4,662	4,778
Capital & Property Spend	930	650	2,002	513	513	513
Other Spend	2,119	2,127	2,127	2,127	2,127	2,127
<b>Total Spend</b>	<b>16,951</b>	<b>16,824</b>	<b>17,948</b>	<b>16,804</b>	<b>17,158</b>	<b>17,521</b>
<b>Cashflow In/(Out)</b>	<b>(758)</b>	<b>(231)</b>	95	1,274	977	693
	-4.7%	-1.4%	0.5%	7.0%	5.4%	3.8%

\*(comparatives restated less depreciation)

## Approved BSB Budget

33. The total BSB budget is a 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.

### Direct Costs

34. The BSB Board approved the 2019/20 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 were approved.

35. The direct expenditure controlled by BSB will be £5,474k; £4.4M staffing and £1M non-staffing; overall, an increase of £263k, 5% on 2018/19. The main drivers for this have been the fair payment of case presenters (prosecutors) and the changes to the examination system to support Future Bar Training (FBT).

	2018/19 Budget	2019/20 Budget
PCF	7,220	8,407
Fees and Charges	1,157	1,059
<b>Subtotal Funding</b>	<b>8,377</b>	<b>9,466</b>
Governance, Exec, Support & Communication	1,499	1,257
Strategy and Policy	989	994
Supervision and Authorisations	1,431	1,634
Enforcement	1,293	1,589
<b>Subtotal Spend</b>	<b>5,212</b>	<b>5,474</b>
Shared Overheads*	2,872	3,017
<b>Total Spend</b>	<b>8,083</b>	<b>8,491</b>
<b>Surplus/(Loss)</b>	<b>294</b>	<b>975</b>

\*(last years comparatives restated less depreciation)

36. BSB expects to raise £1M (£1.2M forecast in 2018/19) of non-PCF funding. This funding is used to offset the amount of PCF that needs to be applied to pay for all regulatory expenditure. The level of fees and charges is lower than forecast in 2018/19. Forecasts are more conservative due to uncertainty around student numbers starting training courses during a period when the training structure is changing and uncertainty of the effects of leaving the EU.

### Indirect Costs

37. 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.
38. The Bar Council's shared Resources Group Finance team has estimated the BSB's share of overheads at £3M, slightly higher than in 2018/19 (£2.8M). This is due to inflationary cost increases and non-recurrent shared costs for the Finance improvement programme (which will provide more efficient financial services across the organisation) and the costs of the PMO (Programme Management Office) for the introduction of the CRM (Customer Relationship Management system) and which will provide core data to the BSB and the Bar Council on the community of barristers it regulates or represents.

### BSB Forecasts to 2022/23

39. 2018/19 was the last year of the BSB's current Strategic Plan. As part of the development of the next strategic plan the BSB has reviewed its priorities and these are set out in its draft Strategic Plan. A revision of the financial and staffing models to reflect the new governance structures and the revised approach introduced by the LSB on regulator performance

monitoring have been included. Detailed forecasts beyond 2019/20 cannot be provided until the new Strategic Plan is agreed and the impact of the LSB's proposed changes to Internal Governance Rules has been assessed.

40. As the new Strategic plan sets out a period of consolidation, many features will be carried over from the proposed 19/20 financial strategy and these have been included in the high-level forecasts provided on page 6.

### **Approved Bar Council budget 2019/20**

41. The budgets of Bar Council include those of the representation function, the activities and roles of the Approved Regulator, the independently funded Services function; which provides optional value-added services to the profession; and a share of the overheads and support costs for the business.
42. The direct expenditure budget of Bar Council will be £3.9M (£3.7M 2018/19).
43. Total funding for Bar Council will increase to £5.5M (£5.1M). The Services function will raise £1.7M (£1.8M in 2018/19 budget) from Bar Representation Fee (BRF) subscriptions and other services; the surpluses from these activities are used both to reduce the PCF burden and to enable BC to undertake activities outside of the permitted purposes. A further £0.25M of funds from third parties will be applied to representation activities.
44. The 2019/20 budget proposals for the Bar Council are shown in Table 8 below.

### **Bar Council Forecasts to 2022/23**

45. Bar Council is currently reviewing its strategy alongside its commercial strategy and is not yet able to provide detailed strategic financial plans for 2019/20 onwards. However, certain key features will likely be carried over from existing financial strategy and have been included in the high-level forecasts provided on page 11.
  - Non-PCF income is planned to grow to provide alternative funding and to mitigate against future risks to PCF.
  - Any above inflation growth in expenditure will need to be matched by growth in income.

	2018/19 Budget	2019/20 Budget
PCF	2,968	3,513
Representation Income	250	250
Services to the Profession	1,947	1,814
<b>Subtotal Funding</b>	<b>5,165</b>	<b>5,577</b>
Representation Direct Costs	2,765	3,069
Shared Overheads*	1,024	1,073
<b>Total Representation</b>	<b>3,789</b>	<b>4,142</b>
Costs of Services	939	839
Shared Overheads*	328	347
<b>Total Services</b>	<b>1,267</b>	<b>1,186</b>
<b>Direct Bar Council Costs</b>	<b>3,704</b>	<b>3,908</b>
<b>Shared Overheads</b>	<b>1,352</b>	<b>1,420</b>
<b>Surplus/(Loss)</b>	<b>109</b>	<b>249</b>
*(last years comparatives restated less depreciation)		

### **PCF Application: LSB and OLC recharges 2019/20**

46. The forecast costs for 2019/20 are £827k, £36k higher than that planned in 2018/19. No changes to PCF fee levels are required to meet this target.

### **PCF Application: Defined Benefit Pension Scheme (DB scheme)**

47. In 2017, GCB raised PCF by 12% to generate an additional £1.3M annually to make annual payments towards the agreed DB scheme deficit recovery plan and build a fund that would eliminate the scheme altogether in the long term. The first collections in 2017 raised £1.3M and the first recovery plan payments were made as expected.

48. No changes to PCF arrangements in respect of the DB scheme are to be made for 2019/20. The DB scheme recovery plan is formally revised every three years with the next review reporting its findings in March 2019. This may lead to a revised recovery plan, affecting payments from 2020 onwards.

49. GCB continues to treat and account for these funds separately from PCF collected for other permitted purposes. The movements and operation of the designated fund, the DB Pension Reserve, will be audited as part of the independent annual audit and published as part of the annual accounts.

## Financial Risk & Mitigation Steps

50. The main budgetary risks are:

- a. PCF collection levels
- b. Uncertainty of non-PCF income
- c. Effect of Brexit on inflation and costs of the Property Programme
- d. Effect of the proposed changes needed to meet the Internal Governance Rules have not been planned or costed in the current budget proposals.

### Key Risks on PCF Collection levels

51. PCF collections levels cannot be forecast precisely: there is uncertainty in both the number of barristers that will seek renewal and in the income band that they will fall into, which affects the fees paid.
52. 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, seek judicial appointment, 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 16,584 (16,243 renewed in 2018).
53. The lack of access to reliable predictive information from BMIF, has meant that the Bar Council has had to analyse its own database of historic information built up over the years to build a predictive model that can be used to forecast the anticipated PCF income.
54. We have used the (Authorisation to Practise) AtP data (from the shared BSB / Bar Council database) for the past four years to get a base level for the number of subscriptions, new starters and leavers, and turn these into heatmaps showing the movement over the fee bands from one year to the next. This has been developed for both employed and self-employed barristers to build up a complete picture. The four years data from 2015/16 to 2018/19 (current database) gives us three years' worth of movements.
55. These heatmaps show that over the four years there is a high level of consistency in the movement of barristers in each of the employed and self-employed cohorts over the fee bands.
56. Other sources of funding present financial risks:
  - Non-PCF regulatory fee income for waivers and other discrete applications is demand led and difficult to predict. BSB have mitigated for this by working to the low side of the range of estimates.
  - The uncertainty of commercial income (arising mainly in Services activity) particularly the voluntary Bar Representation Fee (BRF). This is mitigated by initiatives to improve income from training, events and support to Chambers as well as new commercial partners.
57. Unforeseen costs may arise from external sources including government activity or legal action.



## Financial risk mitigation

58. GCB maintains financial reserves to fund working capital, investments and to provide a financial damper to smooth or cushion adverse financial issues. GCB operates a reserves policy to maintain sufficient cash reserves for these purposes.
59. The GCB distinguishes between permitted purposes reserves (arising from permitted purposes activities) and other general reserves and reports those reserves in the annual audited financial accounts: the permitted purposes reserves arise from the surplus or loss on any BSB regulatory activity (whether funded by PCF or not) and representative permitted purposes activity as included in the s51 report included in our accounts.
60. Movements in and between reserves are reported in the primary statements of the financial accounts, are audited independently and are subject to review by Finance Committee and Audit Committee for financial and process integrity respectively. The approved accounts are available on the Bar Council website.
61. Shortfalls in funding or unplanned costs may, at Bar Council's discretion, be met by:
  - Designated PCF reserves (for PCF funded activities only);
  - General reserves;
  - Cost reductions targeted at non-Permitted Purposes activities (enabling more commercially driven surplus to be put towards permitted purposes activities);
  - Cost reductions applied to Permitted Purposes activity (including its support costs) to reduce the need for PCF funding as agreed with BSB; and
  - Other options will be considered to ensure best use of available cash resources during the year.

## Setting and Managing Budgets 2019/20

62. 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 steps have remained consistent with those used in previous years.

## Building the high-level budget

63. 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.
64. Annual expenditure is driven by regulatory (BSB), Approved Regulator and representative objectives as articulated in their respective strategic and business plans.
65. The BSB regulatory budget was prepared to align with the proposed Strategic Aims set out in the BSB's draft Strategic plan for 2019-20. Budget options were scrutinised by the BSB Planning, Resources and Performance (PRP) Committee and the final bid was approved by the BSB Board.
66. In October 2018, the joint Finance Committee (FC) agreed the parameters of an overall high-level budget that met all the regulatory needs and the combined organisational financial provisions required in the medium term. The proposals were then passed to the Bar Council for approval and consultation with the profession started shortly afterwards.

### Next steps in budget setting

67. Detailed cost centre budgets that fit within the agreed high level financial parameters will be set by relevant managers. These budgets will include contingency plans to mitigate against the risk of shortfalls in PCF and other income. The planning process concludes in February 2019 with scrutiny of detailed budgets by Directors and the Chief Executive.
68. In parallel with this, the BSB maintains a continuous review of their own financial needs and will present any revisions to the BSB budget for review by the BSB's own committees and Board.
69. The combined BSB and Bar Council detailed budget package will be brought to Finance Committee for review in February 2019. The Finance Committee may refer any parts of the budget to relevant parties for further consideration.

### Budgetary control

70. The budgetary control measures are implemented and monitored by the Director of Finance, scrutinised by the Director General of the BSB, the BSB PRP committee, the Bar Council Audit Committee and Finance Committee and other members of the Bar Council and BSB 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.
71. 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.

## PCF and Budget Consultation and Response

### Consultation Process

72. These PCF proposals and supporting explanatory materials were put before the profession between 6 November and 6 December 2018.
73. We followed a similar approach in this consultation to that used in previous years:
  - We presented to and discussed the PCF and budget proposals with the General Management Committee (GMC) of the Bar Council and then the main Bar Council, which together cover the elected representatives of the profession for all years of call and areas of practice and also the Specialist Bar Associations (SBA), the Inns of Court, the Circuits and Clerks. The Bar Council meeting was held on 3 November 2018.
  - 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 16,000 practising barristers.
  - The changes were widely covered in the legal press; Law Society Gazette, Legal Futures, The Times, Legal Business and SBA newsletters.

## Consultation Responses

74. The 118 members of Bar Council approved the proposals in their meeting (84 present) unanimously. The minutes of this meeting will be available on the Bar Council website after approval at the next meeting.
75. There have been 32 responses to the consultation. Six were in favour and Twenty-Six objected to the proposed new bands. The Finance Committee has carefully considered the responses and the major themes and the Bar Council response are detailed in appendix 1. The response represent 0.19% of practising barristers. In the light of the analysis of the consultation response and bearing in mind the unanimous support of the members of the Bar Council the Finance Committee has decided to proceed with the introduction of the two new income bands and the reduction in Band 1 to £100. The effect of this will be to reset the finances and stabilise them for future years.

## Allocation of PCF to non-regulatory Permitted Purposes activities

### Introduction

76. 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. The rationale set out here has been considered in the budget setting process.

### Outcomes

77. 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, barrister led committees and working parties in specialist areas are supported by our staff working through six core teams. These activities are grouped by one of six themes and described on pages 18-24.
78. A proportion of the staffing resource within the representation teams supports non-Permitted Purposes activity and is funded independently. 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 completely outside of Permitted Purposes are budgeted for separately and analysis of this is outside the scope of this paper.
79. Bar Council has again 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. These means include 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 4.

## Description of Representative Activity by Function

### Equality, Diversity, Training and Social Mobility

80. 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’; and
  - ‘Advance equality of opportunity between people from different groups’.
- Promoting equality, diversity and inclusion (including social mobility). Specific programmes cover (i) access, (ii) retention and (iii) progression. Access programmes include but are not limited to Bar Placement Schemes (with social mobility charity partners); e-mentoring, careers outreach, pupillage specific projects and supporting barristers’ work with schools and universities, for example Young Citizens’ Bar Mock Trials.

Outside of permitted purposes:

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

### European Activities (Brussels)

82. 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 Brussels Consultant and EU Law Committee. All activities are within Permitted Purposes but the focus of our activity has changed somewhat following the result of the referendum on EU membership. 60% of our Brussels work enables the Bar Council to:

- Capture the output of the EU institutions which have a bearing on the reform and development of the law in England and Wales, 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; and
- 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.

Our Brexit-related work all falls within section 51(4)(c): law reform and related legislative process and encompasses working with government and other interested parties on the required changes to domestic legislation as a result of the UK leaving the EU. Brexit work accounts for the remaining 40% of our European activities.

## International

83. The International Team exists 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.
- 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.
- 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).
- 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 the Royal Commonwealth Society).

Outside of permitted purposes:

84. On occasion, the International Team's activity has an ancillary purpose to create opportunities for business development including initiating international business development projects, overseas marketing missions to changing jurisdictions including but not limited to Mexico, Kazakhstan and Cyprus, 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

85. 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 the Legal Services Board and Bar Standards Board, the monitoring of changes to the regulatory environment for barristers and

chambers and educational work on practical issues on establishing entities and Alternative Business Structures.

- Practical Advice and support on practice management, including drafting practice management guidance for the Bar and arranging practice management seminars on novel subjects for the Bar.
- 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 a broad range of legislative matters, coordination of law reform related working groups which influence legislation, contributions of the LRC to the Law Commission's programmes of law reform, raising awareness of current law reform issues through the annual law reform 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

86. 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, including HMCTS' court reform programme. This team's work will be split in the next business year because the breadth of work has become too wide for one team to manage. We are therefore creating a new role in the team which will specifically deal with issues relating to criminal justice, including disclosure, the crime aspects of the court reform programme and initiatives like Better Case Management and Transforming Summary Justice. The budgetary consequence of creating this role is explained elsewhere in this submission.

87. As well as being responsible for civil, family and criminal justice issues and practice, this 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 is also responsible for leading on all work in relation to the Young Bar; a very broad remit.

Outside of permitted purposes:

88. Some activities are considered as falling outside of Permitted Purposes:

- Organising and hosting the Young Bar wellbeing seminar and annual dinner
- Work related to Alternative Dispute Resolution;
- International Weekend (a professional development and networking opportunity for young barristers); and
- Lobbying government and the BSB on issues where the interests of the Young Bar are involved.

89. Up to 10% of the team's resources are engaged in this work so 10% funding is sought outside of PCF.

### Remuneration and the Employed Bar

90. The Bar Council Remuneration and Employed Bar Team work to:



- Further the interests of all barristers to ensure that they are paid fairly for the work that they do;
- 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 and engagement with the Ministry of Justice on the Advocates' Graduated Fee Scheme (AGFS) and the implications of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)); and
- Assist the Employed Bar with its particular needs.

Outside of permitted purposes:

91. An estimated 5% of work would not be within the Permitted Purposes. This would include the management of the bi-annual Employed Bar Awards to recognise the work of the Employed Bar.

### Research function

92. A new research function has been created to enable the Policy team to identify research needs and opportunities and to carry out that research internally, rather than having to commission external research. Examples of projects the research function will be involved in include research in relation to law reform, research to assist with our practice management work, aspects of the court reform programme and supporting our regulatory issues work.

### Communications Function

93. 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 (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:

94. Some activities undertaken like the lobbying of government, opinion-formers and others in the interests of both the Bar and the public interest. Other activities include marketing certain services to members of the profession and chambers. For that reason, 25% of the activities and resources are funded independently of PCF.

## Corporate Function

95. This consists of the leadership and support of the Approved Regulator and the representative function. About 10% of this activity is consistent with the management of commercial business activity and so is outside of Permitted Purposes and funded independently.

## Application of PCF to permitted purposes

96. 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 summarised in Table 9. The value of this apportionment is shown in Table 10.

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	<b>Permitted Purposes Subtotal</b>	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 &amp; CSR</i>	30%	30%	30%				<b>90%</b>	10%
<i>EU Law</i>				40%		60%	<b>100%</b>	
<i>International</i>						80%	<b>80%</b>	20%
<i>Law Reform and Regulatory Issues</i>	30%	15%	15%	25%	10%	5%	<b>100%</b>	
<i>Legal Affairs, Practice and Ethics</i>	10%	30%	30%	15%		15%	<b>90%</b>	10%
<i>Remuneration &amp; Employed Bar</i>	15%	15%	15%	45%		5%	<b>95%</b>	5%
<i>Communications</i>	15%			30%	15%	15%	<b>75%</b>	25%
<i>Corporate</i>	15%	15%	15%	15%	15%	15%	<b>90%</b>	10%



**Table 10 - ~Analysis of Representative costs between Permitted and other**

	2019/20 Budget			Total Costs £000	Max Permitted Purposes ("P.P.")	Permitted Purposes Activities £000	Other Purposes £000
	Direct Costs £000	Support Costs £000	Contribution				
<b>Analysis of Representative Permitted Purposes Costs</b>							
Approved Regulator: Corp.	919	350		1,269	90%	1,142	127
Donations	249	-		249	100%	249	-
<b>Approved Regulator Subtotal</b>	<b>1,168</b>	<b>350</b>	<b>-</b>	<b>1,518</b>		<b>1,391</b>	<b>127</b>
<b>Representation:</b>							
<i>Equality, Diversity &amp; CSR</i>	159	60		219	90%	197	22
<i>Policy Directorate</i>	435	166		601	100%	601	-
<i>EU Law</i>	132	50		182	100%	182	-
<i>International</i>	337	128		465	80%	372	93
<i>Law Reform &amp; Regulatory Issues</i>	128	49		177	100%	177	-
<i>Legal Affairs, Practice &amp; Ethics</i>	212	81		293	90%	264	29
<i>Remuneration &amp; Employed Bar</i>	179	68		247	95%	235	12
<i>Communications</i>	319	121		440	75%	330	110
<b>Subtotal Representation</b>	<b>1,901</b>	<b>723</b>	<b>-</b>	<b>2,624</b>		<b>2,357</b>	<b>267</b>
<b>Total</b>	<b>3,069</b>	<b>1,073</b>		<b>4,142</b>		<b>3,748</b>	<b>394</b>
<i>2017/18 Budget</i>	<i>2,765</i>	<i>1,024</i>		<i>3,789</i>		<i>3,410</i>	<i>379</i>

## Equalities Impact Assessment

97. The impact of the proposed changes to the PCF on protected characteristic and equality have been considered. Reducing the band 1 PCF fee to £100 is most likely to benefit those from the following groups: Female, BAME and younger practitioners.
98. The introduction of the two new PCF bands 7 and 8 will have a proportionately greater impact on the following groups: Male, White, older and wealthier practitioners.
99. There is an element of economic fairness in the proposed new bands in that it recognises the wide gap in earnings across the Bar and of the pressures faced by those at the publicly-funded Bar, compared to those on the higher bands.

## Next steps and communication with the Bar

100. The annual Authorisation to Practise (AtP) renewal period for practising certificates opens in February and closes at the end of 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, chambers and employer administrators to ensure that they have the information they need about the Authorisation to Practise (AtP) process.

101. 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 2019.

**Richard Cullen**  
**Director of Finance**  
**Bar Council**  
**December 2018**

## Appendix 1

	<b>There were 6 respondents who agreed with the proposal the major themes are detailed below:</b>	
	<b>Themes</b>	<b>Response</b>
1	Thought it seemed correct and fair	
2	Fully support the introduction of higher fee bands	
	<b>There were 26 respondents who disagreed with the proposal the major themes are detailed below:</b>	
	<b>Themes</b>	<b>Response</b>
1	Acting like an income tax	The PCF fee bands are not redistributive in nature. They are however banded in a fashion similar to the Council Tax property banding. If the PCF was not graduated by income level a flat fee charge (of c.£960) would become a significant burden to those joining the profession and those relying on publicly funded work. This would be counter to the strategic aims of the BSB and the Bar Council to make the profession more representative of society by opening up opportunities for different ethnic and socio economic groups.
2	Unfair as it disproportionately affects those on higher incomes	The alternative to the additional fee bands would be an across the board increase and this would create an unfair rise in each band. This change is meant as a principled change for the benefit of everyone at the Bar. The members of Bar Council approved the proposal at its meeting on 3 November (84 present) unanimously. The minutes of this meeting are available on the Bar Council website.
3	Shortfalls in budgets should be felt by all	The Bar Council is endeavouring to make the business more efficient and responsive to the needs of a data driven world. In order to do this non-recurrent resources have to be expended to improve processes and systems. These have short term impacts on budgets, with the return on investment and the greater efficiency provided seen in future years.

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4	The Bar Council should cut costs if there is a reduction in income	Where income received is lower than anticipated, the Bar Council and the BSB take steps to re-prioritise activities and to operate within budget whilst still being able to deliver core regulatory and statutorily required functions. The budget in the past has been based on assumptions and prediction on PCF income that have not proved to be reliable. With the new systems in place, the Bar Council has a much better ability to analyse data and predict income as well as control expenditure. A new Finance Team is now in place and will be driving an efficiency programme. Therefore, this budget should reset the process on a firm footing.
5	an attempt at redistribution in wealth	The proposal is not an attempt at redistribution of wealth but a recognition of the increasing gap in earnings across the Bar and of the pressures on those at the publicly funded Bar. PCF is set at a level that enables those services and functions that fall within Permitted Purposes under s51 of the Legal Services Act 2007 to be delivered. The level at which this is set has no regard to redistribution of wealth but on efficient and cost-effective delivery of services. The alternative is a flat fee which would have a very significant impact on those earning the least.
6	wrong to expect a minority to rescue a shortfall in the budget for all	The representative body of the Bar Council considered the proposals at the GMC and Bar Council
7	You don't receive more by paying more	This is analogous with Council tax bandings in that the amounts payable increases as the price of the property increases. This mechanism is used to ensure the amounts charged do not become punitive to any one section of the profession, and new entrants are encouraged to join.
8	A number of respondents said an income based fee was wrong in principle, however other respondents said it was not wrong in principle	This debate was fully covered in 2016/17 when the Bar Council took the decision to move from a fee based on the year barristers were called to the bar to an income-based system.
9	Targeting those that have worked hard	see response 12
10	Majority imposing costs on the minority	The 118 members of Bar Council approved the proposals in meeting (84 present) unanimously. The minutes of this meeting are available on the Bar Council website.

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11	Someone on £500k will be subsidising someone on £300k	see response 12
12	Risks the civil bar being taxed by those who will not have to bear the tax	By 2019, inflation will have had a cumulative effect of 10.4%. This has not been addressed through increases in the PCF the Bar Council has reached a point at which it is unable to sustain this. Therefore, the proposed introduction of two new earnings bands at the top end of the PCF tables, allowing for a small reduction for band 1, would have the effect of stabilising the finances.
13	Some objected to the duration of the consultation period	The consultation period started on 6 November and ran until 6 December. The changes were widely covered in the legal press; Law Society Gazette, Legal Futures, The Times, Legal Business, Bar Talk and SBA newsletters.
14	Object to removal of the bulk discount	The discount was introduced to reflect the administrative benefit to the Bar Council of larger employers of barristers or large sets of chambers, managing the PCF renewal process in bulk. With the introduction of new technology to support the authorisation to practise process (and the payment of the PCF), that benefit has reduced. Providing a bulk discount is therefore no longer justified. Sets have indicated that they will continue to pay in bulk.
15	Charging unlawful under the Services Directive	Charging by graduated income bands was a decision taken in 2016/17. The Bar Council decided that this was the fairest and most effective way to charge for the regulatory process. The approach is in compliance with the Services Directive.
16	Risks legal challenge	Due process has been followed in line with the governance process of the Bar Council.