

## BAR COUNCIL

### 2013-14 PCF APPLICATION TO THE LSB

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2013budgetpcfapplicationindexlsb

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## BAR COUNCIL

### 2013 – 14 PCF APPLICATION TO THE LSB

#### 1.1 2013 – 14 PCF PROPOSALS REQUIRING LSB APPROVAL

#### SUMMARY

2013budgetpcfproposalslsb

Self-employed Bar: 2013 - 14 (2012 – 2013 in brackets):

<b>Banding</b>	<b>Core Fee</b>	<b>LSB/Leo Levy</b>	<b>Pensions Levy per Year of Call</b>
	<b>£</b>	<b>£</b>	<b>£</b>
<b>QC</b>	<b>1,202 (1,058)</b>	<b>42 (140)</b>	<b>3 (2)</b>
<b>13 Years Call &amp; over</b>	<b>813 (716)</b>	<b>29 (95)</b>	<b>3 (2)</b>
<b>8 – 12 Years Call</b>	<b>417 (367)</b>	<b>14 (47)</b>	<b>3 (2)</b>
<b>5 – 7 Years Call</b>	<b>222 (195)</b>	<b>8 (25)</b>	<b>3 (2)</b>
<b>3 - 4 Years Call</b>	<b>80 (70)</b>	<b>3 (10)</b>	<b>3 (2)</b>
<b>1 – 2 Years Call</b>	<b>80 (70)</b>	<b>3 (10)</b>	<b>3 (2)</b>

Employed Bar: 2013 - 14 (2012 – 2013 in brackets):

<b>Banding</b>	<b>Core Fee</b>	<b>LSB/Leo Levy</b>	<b>Pensions Levy per Year of Call</b>
	<b>£</b>	<b>£</b>	<b>£</b>
<b>QC</b>	<b>877 (750)</b>	<b>42 (140)</b>	<b>3 (2)</b>
<b>13 Years Call &amp; over</b>	<b>615 (527)</b>	<b>29 (95)</b>	<b>3 (2)</b>
<b>8 – 12 Years Call</b>	<b>340 (295)</b>	<b>14 (47)</b>	<b>3 (2)</b>
<b>5 – 7 Years Call</b>	<b>183 (159)</b>	<b>8 (25)</b>	<b>3 (2)</b>
<b>3 - 4 Years Call</b>	<b>80 (70)</b>	<b>3 (10)</b>	<b>3 (2)</b>
<b>1 – 2 Years Call</b>	<b>80 (70)</b>	<b>3 (10)</b>	<b>3 (2)</b>

## BAR COUNCIL

### 2013 – 14 PCF APPLICATION TO THE LSB

#### 1.2 2013 – 14 PCF PROPOSALS

#### EXAMPLARS

2013budgetpcfexamplarslsb

#### Self-employed Bar:

<b>Banding</b>	<b>2013 – 14 Budget</b>	<b>2012 – 2013 Budget</b>	<b>Percentage increase</b>	<b>Increase per week</b>
	<b>£</b>	<b>£</b>	<b>%</b>	<b>£</b>
<b>QC: 20 Years Call</b>	<b>1,304</b>	<b>1,238</b>	<b>5.3</b>	<b>1.27</b>
<b>Junior: 15 Years Call</b>	<b>887</b>	<b>841</b>	<b>5.5</b>	<b>0.88</b>
<b>Junior: 10 Years Call</b>	<b>461</b>	<b>434</b>	<b>6.2</b>	<b>0.52</b>
<b>Junior: 6 Years Call</b>	<b>247</b>	<b>232</b>	<b>6.5</b>	<b>0.29</b>
<b>Junior: 4 Years Call</b>	<b>95</b>	<b>88</b>	<b>7.4</b>	<b>0.13</b>
<b>Junior: 2 Years Call</b>	<b>89</b>	<b>84</b>	<b>5.4</b>	<b>0.09</b>

#### Employed Bar:

<b>Banding</b>	<b>2013 - 14</b>	<b>2012 - 2013</b>	<b>Percentage increase</b>	<b>Increase per week</b>
	<b>£</b>	<b>£</b>	<b>%</b>	<b>£</b>
<b>QC</b>	<b>979</b>	<b>930</b>	<b>5.3</b>	<b>0.94</b>
<b>Junior: 15 Years Call</b>	<b>689</b>	<b>652</b>	<b>5.6</b>	<b>0.70</b>
<b>Junior: 10 Years Call</b>	<b>384</b>	<b>362</b>	<b>6.1</b>	<b>0.43</b>
<b>Junior: 6 Years Call</b>	<b>209</b>	<b>196</b>	<b>6.4</b>	<b>0.24</b>
<b>Junior: 4 Years Call</b>	<b>95</b>	<b>88</b>	<b>7.4</b>	<b>0.13</b>
<b>Junior: 2 Years Call</b>	<b>89</b>	<b>84</b>	<b>5.4</b>	<b>0.09</b>

**BAR COUNCIL**

**2013-14 BUDGET**

**1.3 CALCULATION OF 2013-14 PCF REVENUE**

2013budgetpcfrevenueulsb

	PCF: Core 2012/13 Nos. by band	PCF: Core 2013/14 Rate Budget	PCF: Core 2013/14 Revenue Budget	Levy: LSB/LeO 2012/13 Rate Budget	Levy: LSB/LeO 2013/14 Rate Budget	Levy: LSB/LeO 2013/14 Revenue Budget	Levy: Pensions 2012/13 Per Yr Call Budget	Levy: Pensions 2013/14 Per Yr Call Budget	
<b>Rate Change:</b>									
<b>Self-Employed</b>		£	£	£	£	£	£	£	
QC	1,494	1,058	1,202	1,795,621	140	42	62,748	2	3
Over 13 years call	6,250	716	813	5,083,600	95	29	178,125	2	3
8-12 years call	2,254	367	417	939,720	47	14	31,781	2	3
5-7 years call	1,322	195	222	292,849	25	8	9,915	2	3
3-4 years call	786	70	80	62,503	10	3	2,358	2	3
0-2 years call	328	70	80	26,083	10	3	984	2	3
<b>Rate Change:</b>									
<b>Employed</b>		£	£	£	£	£	£	£	£
QC	19	750	877	16,663	140	42	798	2	3
Over 13 years call	1,958	527	615	1,204,170	95	29	55,803	2	3
8-12 years call	550	295	340	187,000	47	14	7,755	2	3
5-7 years call	239	159	183	43,737	25	8	1,793	2	3
3-4 years call	99	70	80	7,872	10	3	297	2	3
0-2 years call	33	70	80	2,624	10	3	99	2	3
<b>Total no.</b>	<b>15,332</b>			<b>9,662,442</b>			<b>352,456</b>		
Allowance for default, waivers etc				-676,371			-24,672		
				<b>8,986,071</b>			<b>327,784</b>		
<b>BUDGET TARGET</b>				<b>8,953,700</b>			<b>330,000</b>	<b>400,000</b>	<b>627,000</b>

## BAR COUNCIL

### 2013 – 14 PCF APPLICATION TO THE LSB

#### 1.4 SETTING THE BUDGET/CONTINGENCY ARRANGEMENTS

2013budgetsettinglsb

##### **The Annual Budget**

It is the Chief Executive's responsibility to ensure that an annual budget is drawn up for each financial year, which is from 1 April to 31 March (as of 2012). Planned expenditure must conform to the functions of the Bar Council as both Approved Regulator and Representative body.

Annual expenditure is to be driven by regulatory and representative objectives as articulated in annual plans that should be prepared and agreed ahead of each financial year.

The Budget is compiled from, and starts with, the individual budget bids of respective departmental budget holders aggregated into four main areas, BSB, Central Services, Corporate and Representation & Policy. While responsibility for the preparation of the overall Budget rests with the Head of Finance, it is the responsibility of the Chief Executive and the Directors to oversee budget preparation in their respective areas of responsibility. This includes consultation and or obtaining approval, where appropriate of Board or Committee membership. All staff are expected to co-operate fully in the timely completion of budget bidding forms and in providing the Head of Finance with all financial, statistical and other relevant information necessary for the preparation of budgets, estimates and forecasts. The first draft will be prepared in September and will form the basis of screening meetings to be conducted variously by the Treasurer, Chief Executive, respective Directors and the Head of Finance.

The BSB's executive prepares a business plan and budget bid to report to the Planning, Resources & Performance committee for consideration and scrutiny (July). These are then signed off by the Board (September) before being presented as a draft to the Finance Committee (FC).

By early October the draft Budget will be forwarded to the Finance Committee (FC) for comment. The FC may refer back any parts of the budget to relevant parties for further consideration and if necessary the identification of priorities between proposed expenditure and possible areas of savings. Thereafter the FC will finalise the proposed Budget prior to submitting it for approval by the Bar Council by the November meeting, when Practising Certificate Fees (PCF) and the Members Services Fee (MSF) for the forthcoming year will also be agreed, subject to website consultation with the profession in November/December and ratification by the LSB the following January.

The Chief Executive, on behalf of the Bar Council, is responsible for overseeing the submission, in accordance with LSB guidance, of the application for approval by the LSB of the proposed Budget and PCF levels.

### **Budgetary Control**

The Treasurer is to exercise overall budgetary control. The Officers, Chief Executive and Directors have overall responsibility for the control of funds within their budgetary allocations and for the financial control and formal approval of expenditure.

Each budget holder has the responsibility for monitoring expenditure, 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 the Procurement Policy.

No Council Officer, Council member, the BSB, committee chairman/member, or Council employee has any authority to exceed the approved budget. The policy with regard to over spending, under spending and virement is detailed below.

### **Management of Unbudgeted Expenditure**

A contingency sum will be factored into the annual Budget. The exact figure will be dependent upon circumstances and assessment of risk. Any requests for unbudgeted expenditure against the contingency budget must be consistent with the regulatory and representational business plans or objectives and will normally be expected to identify a financial offset.

Any request from the BSB for unbudgeted expenditure, i.e. expenditure beyond the annual total budget of the BSB should be approved by the PRP prior to submission to the FC. Any request from Representation & Policy or Corporate for unbudgeted expenditure up to £10k may be approved by the GMC. Unbudgeted Representative or Corporate expenditure in excess of that figure must gain the support of the GMC prior to submission to the FC. Unbudgeted expenditure within Central Services will, by definition be in support of a regulatory, representative or cross cutting activity and should be referred to the PRP, Board and/or GMC as appropriate and in accordance with the above detailed financial parameters

All approvals under £10k are to be reported at the immediately following FC meeting. It is the responsibility of the respective Directors to present the written case for unbudgeted expenditure.

In an emergency, power of approval is delegated by the FC to the Treasurer, for sums in excess of £10k but less than £20k only. The Treasurer shall make such informal consultation, if any, with members of the FC as he deems appropriate, and must report any such approval given at the next FC meeting.

## Virement

Virement is the process of transferring financial resources that have been identified and agreed as attributable to a particular activity and related budget heading to a different existing or new activity.

It is recognised that at the point at which budget bids are finalised and approved there is not always either sufficient data or absolute clarity of business priorities to be precise in identifying the associated financial requirements. Equally, unanticipated events may arise which dictate alternative courses of action. In consequence, there may either be funds that become surplus to the original requirements and/or a need to identify additional funds in order to implement a new or revised objective. In such circumstances virement becomes an option.

All proposals for virement must first be considered in the context of the individual Corporate, Central Services, BSB and Representational budget groupings and secondly against the overall Bar Council budget performance. Virement within the regulatory budget must be considered on its own terms. It may be that an underspend in one area may be required as an offset elsewhere in order to avoid an overall budget overspend; however regulatory underspends must first be considered for attribution to regulatory priorities before they become available for wider attribution.

As resources are bid for, and approved, to meet specifically identified requirements, budget holders do not have the latitude to apply budgets for different purposes without further reference or approval. The BSB will submit its requests for virement within and between regulatory cost centres to its PRP committee for approval and such approvals will be reported to the FC at the next relevant meeting. Any requests for virement to fund additional staff must be brought to the FC for approval and in respect of the BSB will be made with the prior approval of the PRP committee.

The Chief Executive and Directors have authority to approve virement proposals up to £5,000. Any such bid must include an explanation as to how the associated underspend has arisen and/or why the activity for which funds were originally provided is no longer a priority and the associated short and long implications of the removal of funding. Given that there may be competing demands for virement funds, the FC should also be advised as to the revised order of departmental priorities and the implications of failure to fund the new or enlarged initiative.

## Budget Overspends/Underspends and Unanticipated Additional Income

While budgeting is not an exact science and both over and under spends are to some degree inevitable, there is the expectation on all staff to remain within budget (see 'Budgetary Control' above). All significant variations (+/- 15% or £10k whichever is the lesser figure) to

budgets require explanation. Quarterly reports on budget performance are to be rendered, by the Chief Executive and Directors, to the FC. The reports are specifically to identify any significant variations, provide an explanation of both the cause and the implications of both over and under spends. BSB reports are rendered to the PRP committee and noted by the FC. Unspent balances are not carried forward into the following financial year unless it is against an agreed programme of work that spans one or more financial years. The Head of Finance must be provided with a forecast spend profile for the activity in question by the respective budget holder which is to be updated thereafter on a monthly/quarterly basis as appropriate. This requirement is to be rigorously met at financial year end in order to support the validity of the annual Financial Statements.

There is no inherent right of the respective budget holder to have first claim on any unanticipated, additional or 'windfall' income as such a policy would not be conducive to rigorous income forecasting. This does not preclude the respective Director from bidding to the FC to apply the windfall in support of a particular business objective. However, the permission of the FC will be dependent upon the wider obligations of the overall budget.

Income from the imposition of regulatory fines is not to be budgeted for in the same way as other fee and service provision income.



## **BAR COUNCIL**

### **2013 – 14 PCF APPLICATION TO THE LSB**

#### **1.5 RESERVES POLICY**

2013budgetreserveslsb

##### **Reason for Reserves**

Reserves are important as they enable the Bar Council to:

- Fund working capital;
- Fund any shortfall in anticipated income; &
- Fund unexpected expenditure that is necessary to fulfil a legal or other commitment in its role as an Approved Regulator.

##### **Importance of a Reserves Policy**

A reserves policy demonstrates:

- Transparency and accountability to the Bar, who provide the bulk of the Council's revenue;
- Good financial management; &
- The justification for holding the amount of the Reserves.

##### **Definition of Reserves for this purpose**

The Reserves Policy statement will relate only to those funds that are freely available to spend in the furtherance of its representative and regulatory objectives. Therefore, the following are excluded:

1. The Pensions Reserve – This is the notional funding deficit in respect of the Defined Benefit Pension Scheme, which is calculated and reported in accordance with FRS17.
2. The Revaluation Reserve – This is the book adjustment to state the carrying value of the investment portfolio to market value, as at the Balance Sheet date.

The Reserves policy will only apply to the Accumulated Fund.

##### **Strategy for achievement**

The desired level of reserves can be adjusted quite simply by two routes – by a direct call on the Bar or by planning for a surplus within the Budget compilation process. For either method, transparency is essential.

### **Fixing the level of Reserves**

The target level of Reserves will be set at £3.0M or the value of four months' operating expenditure, whichever is the greater. The level of Reserves will be reviewed annually by the Finance Committee.

This figure is predicated on the basis that:

- There will always remain the possibility of some unanticipated decline in income (an example might be where a review of some Education & Training activity leads to a recommendation of a reduction or even abolition of the directly-attributable income);
- There could be a penalty levied by the LSB/OLC;
- Unanticipated additional tasks, such as the new regulatory framework, may arise; &
- There could be a property-related liability.

This list is not, and could not be, exhaustive.

From another perspective, it is suggested that no higher figure is appropriate, based on the following arguments:

1. It would be indefensible to retain funds obtained principally from the profession by way of the PCF/MSF which could not be reasonably justified on prudence grounds.
2. The majority of Bar Council expenditure is argued to fall within the "permitted purposes" and so can be funded by means of the PCF, for which there is a strong covenant with the profession.
3. While always seeking to compile a break-even Budget every year, the built-in Contingency element functions to dampen the impact of the majority of "surprise" demands that may occur, once the Budget has been signed off.
4. Over the recent past, the Council has, more often than not, ended each year with a surplus on its Income & Expenditure Account, although this has not always been sufficient to outweigh actuarial losses in respect of the (closed) Defined Benefit pension scheme.

In order to avoid any significant deficit, the Budget model of PCF/MSF receipts will always include a significant discount in respect of fee income from the profession, so as to mitigate against the incidence of eventual non-payment, waivers or discounts for low income by/for the profession.

For 2013 – 14, against a background of the need to increase the level of PCF merely to fund “core” activities, the Finance Committee agreed to relax its four months’ operating expenditure rule and decided against seeking any funding at this time, which would facilitate any increase in the level of Reserves.

## BAR COUNCIL

### 2013 – 14: PCF APPLICATION TO THE LSB

#### 1.6 CONSULTATION WITH THE PROFESSION

2013budgetconsultlsb

##### Summary

As Treasurer to the Bar Council, I am required by the Legal Services Board to bring forward this consultation document, which sets out for comment the proposed budget for the financial year beginning April 2013. Irrespective of that regulatory obligation, I think that in any event the practising Bar – which is itself responsible for some 60% of the income of the Bar Council – should have visibility of the Budget, and where its money goes.

The budget set out within this Consultation (a budget which was approved by the Bar Council at its meeting on Saturday 17 November) mandates an **overall 5.7%<sup>1</sup> increase in the size of the cheque to be written by individual practitioners**. That increase is the blended result of the three charge lines<sup>2</sup> which, under our governance structures, practitioners are required to cover annually when they each write a cheque to The Bar Council. The 5.7% increase in the quantum of those cheques reflects the net effect of a combination of unavoidable cost increases, and reduced income.

**The views of practitioners on this budget are welcomed.** Details of how to respond are set out on page 6.

##### Background

The practising Bar faces a number of challenges, most notably for those engaged in publicly funded work. Equally, the Bar cannot respond effectively to these challenges without a central structure which co-ordinates views and acts on behalf of the Bar to lobby for change where necessary and also maintain the profile of the Bar, nationally and internationally. The Bar Council's budget therefore includes the costs (and income) generated by these representational and policy functions, all of which are contained within the 'Rep & Pol' directorate, led by Mark Hatcher.

Separately, rather than be regulated directly by government, the Bar chose in 2005 a path of self-regulation and itself established the Bar Standards Board (BSB), to which the Bar Council has delegated its regulatory functions. Of necessity, as part of the model of delegation set out in the relevant legislation<sup>3</sup>, the BSB has to – and does - operate on an

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<sup>1</sup> The range is between 5.3% and 7.4%, see table below.

<sup>2</sup> See page 2 below

<sup>3</sup> Legal Services Act 2007

independent, arm's-length basis. The Bar Council's budget therefore includes the costs (and income) generated by this regulatory function, which is contained within the 'BSB' directorate, led by Vanessa Davies.

Finally, those two directorates are supported by a Central Services Directorate, which is responsible for the wider resourcing, servicing and support of the other two Directorates, and the costs of the premises occupied by the Bar Council as a whole. This Directorate, 'Central Services' is led by Oliver Delany.

Across the Bar Council as a whole is a Chairman's office, which covers the cost of the Chairman and the Chief Executive (that post is currently vacant, but a recruitment process is under way).

### **Payments made by the Practising Bar to the Bar Council**

Each year, practitioners (the c 12,500 in self-employed practice, and the c 2,500 in employed practice) make an individual payment to the Bar Council, comprising three elements:-

Core Practising Certificate Fee PCF	This is the practising Bar's contribution to the funding of the Bar Council, and its three directorates (Rep and Pol; BSB; and Central Services). The amount payable by any individual practitioner is a function of two criteria: (i) whether the individual is in employed or self-employed practice, and (ii) the length of time since call to the Bar.  There is a waiver arrangement for those whose annual gross income in self-employed practice is less than £40K, or in employed practice whose annual income is less than £30K
LSB/OLC levy	This is the amount levied on the Bar by the Legal Services Board (LSB) to cover the costs of the Board, and of its Office for Legal Complaints (OLC).
Pensions levy	This is the amount required to cover the relevant year's contribution to the Defined Benefit Pension Scheme. It is allocated to individual practitioners by reference to length of call (with a cap at 39 years)

### **The proposed Budget, 2013-14**

The key features of this Budget are as follows:

- The Budget covers the twelve month period 1 April 2013 to 31 March 2014. (The previous Budget covered the twelve month period 1 April 2012 to 31 March 2013.)

- The total income of the Bar Council (excluding Core PCF) is budgeted to increase by £470k. However, while there are increases in directly attributable income from both Rep and Policy (£326k) and the BSB (£523K), these are offset by a partial withdrawal of the Inns' subventions of £382k. Total costs of the Bar Council are, however, budgeted to increase by £918k, some 7%,
- It will be immediately apparent that, in absolute terms, costs are increasing by more than income, albeit that the rate of increase of income is higher than that of operating costs. This gap is exacerbated by the fact that a number of initiatives were approved in year by the Finance Committee (for example, the "BarCo" initiative, and certain regulatory spend) which were funded from reserves. Those initiatives are therefore now part of the cost base of the Bar Council, and we do not propose to fund them from reserves this year as (a) they are now part of the Bar Council's 'business as usual' activities, and (b) the Bar Council's reserves need to be maintained at their present level (sufficient to cover three months operating expenditure of the Bar Council).
- The overall budget for the Bar Council is therefore as follows:-

	£'000
Income	14,450 (up 10.3% on prior year £13,100k)
Expenditure	14,450 (up 6.8% on prior year £13,532k, but note that prior year was funded as to £432k from reserves – hence the higher step-up in income required for 2013-14 as these activities become 'business as usual')
<b>Balance</b>	<hr style="width: 10%; margin: 0 auto;"/> 0

- Having eaten significantly into reserves last year (c£430k), the Finance Committee has decided that this year there needs to be a balanced budget. However, this has to be achieved in a way that ensures that the financial pressure is allocated appropriately. This has involved some difficult decisions within a rigorous budgeting process. The needs of the Bar Council have been balanced against the financial position of the practising Bar, and the pressures under which many publicly funded practitioners are operating.

A Summarised Income & Expenditure Account can be found in Annex 1.

**Proposed payments to be made by the Practising Bar to the Bar Council**

As indicated above, the Bar Council has attempted to balance the financial interests of practitioners against the need to ensure that the Bar remains in control of its representational and regulatory agenda through an effective and properly functioning Bar Council. The Bar Council has therefore approved the budget on the basis that the annual increase in the overall<sup>4</sup> amount paid by each practitioner will remain at a manageable level. **The increase is c 5.7% overall**, and shown in the table below are specific cases of example practitioner types, with a column showing the additional amount per week that this represents.

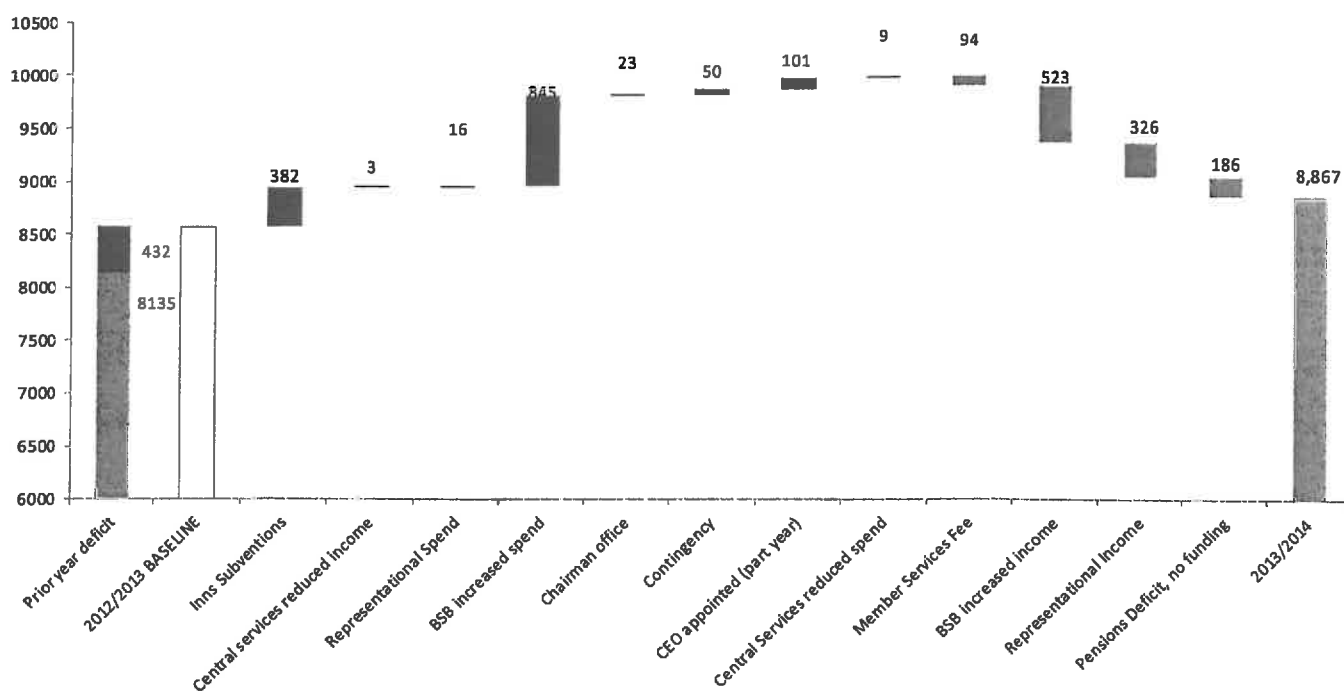
Core PCF plus LSB levy, plus pension levy					
	2012/13 RATE	2013/14 RATE	Percentage increase, YoY	Increased amount per week	
<b><u>Self-Employed</u></b>					
QC, 20 years call	1,238	1,304	5.3%	£	<b>1.27</b>
Junior, 15 years call	841	887	5.5%	£	<b>0.88</b>
Junior, 10 years call	434	461	6.2%	£	<b>0.52</b>
Junior, 6 years call	232	247	6.5%	£	<b>0.29</b>
Junior, 4 years call	88	95	7.4%	£	<b>0.13</b>
Junior, 2 years call	84	89	5.4%	£	<b>0.09</b>
<b><u>Employed</u></b>					
QC, 20 years call	930	979	5.3%	£	<b>0.94</b>
15 years call	652	689	5.6%	£	<b>0.70</b>
10 years call	362	384	6.1%	£	<b>0.43</b>
6 years call	196	209	6.4%	£	<b>0.24</b>
4 years call	88	95	7.4%	£	<b>0.13</b>
2 years call	84	89	5.4%	£	<b>0.09</b>

**Table 1 – Increase in amounts paid, example practitioners**

<sup>4</sup> The overall amount comprises the three elements shown in the table on page 2, being the Core PCF, the LSB/OLC levy, and the pensions levy.

As indicated, the increases comprise three elements: core PCF (which is moving up on average by c10%); the LSB/LOC levy (which is moving down by c70%, having collected a greater amount in previous years than, in the event, was demanded by the overarching regulator); and the pensions levy (which is moving up by c 17%). The blended weighted impact is of an overall cost increase of c 5.7%.

So far as the Core Practising Certificate Fee is concerned, the individual cost drivers of this, and of the overall Bar Council budget, are set out in the chart below. The red blocks indicate negative items – so where cost is budgeted to increase or income to reduce; and the green blocks indicate positive items – so where cost is budgeted to reduce, or income to increase. I hope that this provides a useful overview of the changes driving the movement in the Core Practising Certificate Fee.



**Chart 1- Changes in Core Practising Certificate Fee, 2013-14 budget over 2012-13 projection**

It will be helpful if I point out that, whilst the Core PCF in 2012-13 raised £8,075k, the baseline for the year needs to be increased to reflect that fact that £432 of in-year costs were covered by reserves, which next year need to be funded from overall income (and will therefore represent an additional pressure on the Core PCF). The 2012-13 baseline has therefore been raised to reflect this (see the two left hand columns in the chart).



## Equalities Impact Assessment

In initiating consultation the Finance Committee identified the following equalities impact arising from the 2013/14 PCF proposals:

- Maintaining the extant banding arrangements, based upon year of Call, benefits, in general, the younger members at the expense of older members of the practising profession.
- Additionally, a banding arrangement based upon year of Call disadvantages those, predominantly women, who take career breaks for whatever reason.
- Any increase in the PCF exacerbates the financial challenges faced by those less well remunerated members of the practising profession, amongst whom women and BME are disproportionately represented. Potentially, any increase in the PCF will impact adversely on the diversity of the profession.

The mitigation of the above is the maintenance of the current well-established system of waiver based upon income, for which the threshold is £40k for the self-employed Bar and £30k for the employed Bar.

Looking to the future, the FC had initiated a consultation on the options for the allocation of the PCF in 2014/15, which included an income based fee. The results of the consultation would be available by late December 2012. Any consequent change to the PCF would be subject to further consultation and equalities impact assessment.

### Action Required

The Finance Committee will reflect on the submissions received, before finalising the budget and PCF to be put to the Legal Services Board, with whom agreement must be reached in good time before the notice of fees/levies can be despatched in mid-February next year.

- Respondents should e-mail their views to the following address: [2013-14budgetconsultation@barcouncil.org.uk](mailto:2013-14budgetconsultation@barcouncil.org.uk) **by no later than 3.00 p.m. on 14 December 2012.**

**ANNEX 1****2013 -14 BUDGET****SUMMARISED INCOME & EXPENDITURE ACCOUNT**

2011/12 ] 15 mths ] ] ] Actual ] £000 ] ] Income:	2012/13 ] 12 mths ] ] ] Budget ] £000 ] ] ]	2012/13 ] 12 mths ] ] ] Forecast ] £000 ] ] ]	2013/14 ] 12 mths ] ] ] Budget ] £000 ] ] ]	Change: 2013/14 B. Versus 2012/13 F. £000
9,265.0 ] PCF: Core Activities	7,884.1 ]	8,074.9 ]	8,953.7 ]	878.8
1,692.0 ] MSF	1,135.1 ]	1,189.5 ]	1,195.0 ]	5.5
1,611.8 ] Inns Subventions	1,381.7 ]	1,381.7 ]	1,000.0 ]	-381.7
] Directly attributable:	] ]	] ]	] ]	] ]
1,040.1 ] Rep. & Pol.	1,075.4 ]	1,079.8 ]	1,405.8 ]	326.0
1,647.6 ] BSB	1,322.7 ]	1,231.5 ]	1,754.7 ]	523.2
213.7 ] Central Services	151.2 ]	143.0 ]	140.0 ]	-3.0
----- ]	----- ]	----- ]	----- ]	----- ]
<b>15,470.2 ] Total</b>	<b>12,950.2 ]</b>	<b>13,100.4 ]</b>	<b>14,449.2 ]</b>	<b>1,348.8</b>
----- ]	----- ]	----- ]	----- ]	----- ]
] Expenditure	] ]	] ]	] ]	] ]
] Corporate:	] ]	] ]	] ]	] ]
984.1 ] Chairman	755.0 ]	752.1 ]	725.0 ]	-27.1
178.3 ] Chief Executive	171.2 ]	88.5 ]	189.0 ]	100.5
----- ]	----- ]	----- ]	----- ]	----- ]
1,162.4 ]	926.2 ]	840.6 ]	914.0 ]	73.4
2,980.9 ] Rep. & Pol.	2,790.4 ]	3,010.8 ]	3,076.7 ]	65.9
4,499.7 ] BSB	4,095.3 ]	4,341.2 ]	5,135.8 ]	794.6
5,967.8 ] Central Services	5,017.8 ]	5,354.0 ]	5,272.7 ]	-81.3
----- ]	----- ]	----- ]	----- ]	----- ]
14,610.8 ]	12,829.7 ]	13,546.6 ]	14,399.2 ]	852.6
] Contingency, say	157.1 ]	-200.0 ]	50.0 ]	250.0
465.0 ] Pensions Past Service Deficit	] ]	186.0 ]	] ]	-186.0
----- ]	----- ]	----- ]	----- ]	----- ]
<b>15,075.8 ] Total</b>	<b>12,986.8 ]</b>	<b>13,532.6 ]</b>	<b>14,449.2 ]</b>	<b>916.6</b>
----- ]	----- ]	----- ]	----- ]	----- ]
<b>394.4 ] Surplus/(Deficit)</b>	<b>-36.6 ]</b>	<b>-432.2 ]</b>	<b>0.0 ]</b>	<b>432.2</b>
===== ]	===== ]	===== ]	===== ]	===== ]

**PROPOSED PAYMENTS TO THE BAR COUNCIL**

2011/12 ] 15 mths ] ] ] Actual ] £000 ] ] ]	2012/13 ] 12 mths ] ] ] Budget ] £000 ] ] ]	2012/13 ] 12 mths ] ] ] Forecast ] £000 ] ] ]	2013/14 ] 12 mths ] ] ] Budget ] £000 ] ] ]	Change: 2013/14 B. Versus 2012/13 F. £000
9,265.0 ] PCF: Core Activities	7,884.1 ]	8,074.9 ]	8,953.7 ]	878.8
2,028.0 ] PCF: LSB Levy	1,096.6 ]	1,159.0 ]	330.0 ]	-829.0
3,218.0 ] PCF: Pensions Levy	400.0 ]	533.1 ]	627.0 ]	93.9
----- ]	----- ]	----- ]	----- ]	----- ]
14,511.0 ]	9,380.7 ]	9,767.0 ]	9,910.7 ]	143.7
1,692.0 ] MSF	1,135.1 ]	1,189.5 ]	1,195.0 ]	5.5
----- ]	----- ]	----- ]	----- ]	----- ]
<b>16,203.0 ]</b>	<b>10,515.8 ]</b>	<b>10,956.5 ]</b>	<b>11,105.7 ]</b>	<b>149.2</b>
===== ]	===== ]	===== ]	===== ]	===== ]

## **OUTCOME OF THE 2013 – 14 BUDGET CONSULTATION**

By the close of the consultation a total of 41 responses had been received, an estimated 0.26% of the number of employed & self-employed barristers. An analysis of the responses is shown below:

<b>Nature of response</b>	<b>Number of replies</b>	<b>Percentage of total</b>
No increase in PCF	18	43.9
Cut expenditure	11	26.8
5% cut in expenditure year-on-year	5	12.2
More detail required	4	9.8
Parity of PCF rates between Employed & Self-Employed barristers	1	2.4
Support Budget proposal	2	4.9
Total	41	100.0

In the light of this outcome, on 18 December 2012, the Finance Committee took the decision not to make any change in the proposed PCF rates/bandings for 2013 – 14.

**BAR COUNCIL**

**2013 - 14 PCF APPLICATION TO THE LSB**

**2.1 ALLOCATION OF PCF TO REGULATORY AND PERMITTED PURPOSES EXPENDITURE**

2013budgets51incomeallocationlst	Total	Directly	Inns	Permitted	Recoup	C. Serv./	Total	Recog.	
	2013 - 14	Sub.-	Attribut.	Contribs.	P.P. via	MSF	2013 - 14	Loss	
Expenditure/Costs:	Expend.	Analysis	(Income)	(Income)	("P.P.")	PCF Inc.	(Income)	for Year	
	£000	£000	£000	£000	%	£000	£000	£000	
<b>(A) Regulation:</b>									
<i>Disciplinary</i>	3,475		0			-3,475		0	
<i>Educ. Stds.</i>	1,640		-910	-730				0	
<i>Qualifications</i>	546		-237			-309		0	
<i>Professional Practice</i>	1,145			-48		-1,097		0	
<i>Quality</i>	947		-120			-827		0	
<i>QASA</i>	402		-487			85		0	
	<b>8,155</b>		<b>-1,754</b>		100				
<b>(B) Permitted Purposes:</b>									
Approved Regulator: Corp.	1,630	-222			80	-1,126	-142	-140	
Donations: FRU/BPBU/BHRC		222		-222	100			0	
	<b>1,630</b>	<b>0</b>							
<b>Representation:</b>									
<i>Professional Affairs</i>	916	-916							
<i>Training for the Bar</i>		224			100	-224		0	
<i>Young Bar</i>		113			80	-90	-23	0	
<i>Professional Practice/Ethics</i>		92	-45		100	-92	45	0	
<i>Alternative Disputes Resolution</i>		68			85	-58	-10	0	
<i>IT Panel</i>		81			85	-69	-12	0	
<i>Employed Bar</i>		74			80	-59	-15	0	
<i>Troubleshooting Group</i>		53			0		-53	0	
<i>Legal Services</i>		67			80	-54	-13	0	
<i>Law Reform</i>		72			100	-72	0	0	
<i>Direct Access</i>		72			95	-68	-4	0	
<i>International/Europe</i>	709		-33		80	-567	-109	0	
<i>Remuneration</i>	854	-854							
<i>Remuneration (Policy)</i>		500			80	-400	-100	0	
<i>Communications</i>	603				75	-452	-151	0	
	<b>3,082</b>	<b>-354</b>							
<b>(C) Member Services:</b>									
Remuneration (Fees Collection)		354			0		-354	0	
Member Services	1,582		-1,328		0		-254	0	
	<b>4,664</b>	<b>0</b>							
	<b>14,449</b>		<b>-1,406</b>					<b>0</b>	
<b>Income</b>			<b>-3,160</b>	<b>-1,000</b>		<b>-8,955</b>	<b>-1,195</b>	<b>-140</b>	<b>-14,450</b>

## BAR COUNCIL

### 2013 – 14 PCF APPLICATION TO THE LSB

#### 2.2 NON-REGULATORY ACTIVITY CLASSIFIED AS “PERMITTED PURPOSES”

2013budgetnonregulatoryexpenditurelsb

As part of the annual budget-setting process, the Bar Council has considered s.51 of the Legal Services Act 2007 alongside its planned non-regulatory activities in order to assess the extent to which they fall within the “permitted purposes” of the Act. In considering this, there has been analysis of historic allocation (for example, as previously allowed on the basis of the Access to Justice Act 1999) and a rigorous test as to whether the previous rationale remains valid and the extent to which it may have changed.

In the view of the Bar Council, there are not expected to be any changes of any significance in 2013 – 14 in the work undertaken by the non-regulatory arm that would invalidate the detailed analysis and justification that was provided as part of the submission to the LSB last year. Therefore, in compiling the Budget for 2013 – 14, non-regulatory activities are classified as “permitted” and “not permitted” in the same way and with the same allowable percentages as previously.

## BAR COUNCIL

### 2013 – 14 PCF APPLICATION TO THE LSB

#### 3.1 BUDGET FOR REGULATORY FUNCTIONS

2013budgetforregulatoryfunctions

**Introduction:** This commentary was prepared by the Director of the Bar Standards Board to accompany the Budget bid for the BSB that was considered by the Finance Committee at its meeting on 25 September 2012. For the sake of brevity, the various annexes referred to are not reproduced here.

#### **Bar Standards Board: Strategic and business plans and 3-yr budget bid**

##### **Status:**

1. For noting in conjunction with budget bid (which is for approval).

##### **Executive Summary**

2. This paper presents
  - An overview of the resourcing requirements of the BSB for the next three years
  - the draft BSB Strategic Plan 2013 -16 (annexe 1);
  - extracts from operational business plans (annexe 2);
  - the BSB 3-yr budget bid in detail for each cost centre (annexe 3);
  - some analyses of trends in graphic form (annexe 4).
3. The (draft) strategic plan sets out the mission and vision for the BSB for the period 2013 -16 and five over-arching strategic aims, to which we have sought to align all activity.

Our mission is

*to regulate the Bar so as to promote high standards of practice and safeguard clients and the public interest.*

The 2013-16 BSB strategic plan is our third three-year plan. It builds on our earlier work to establish ourselves as the independent regulator of the Bar under the LSA 2007. **Our vision for this period to become a more modern and efficient regulator, operating to externally agreed high standards, fulfilling our mission and upholding and promoting the regulatory objectives and professional principles.**

4. The five (draft) over-arching strategic aims are to

- Implement our specialist regulatory regimes for advocacy services which operate in the public interest and in support of the regulatory objectives of the LSA2007
- Promote greater public and professional understanding of and support for our role and mission
- Set and maintain high standards of entry to and practice in a diverse profession
- Become more evidence- and risk-based in all we do, taking into account also the globalised legal services market
- Strive for "best practice" as an organisation for those who work for us and those whom we serve.

As we progress these aims, we will be guided by our core values of integrity, excellence, fairness, respect and value for money.

5. We will be undergoing significant internal change and enhancing our capacity and capability to fulfil the mission, make progress towards the vision and achieve our strategic aims. The change programme is driven significantly - but by no means solely - by the requirements of the LSB's regulatory standards framework. We need a step-change in the level of resource to be invested in year one of the plan. Resource requirements level out thereafter.

6. The resource headlines are as follows:

Dept	FTE <sup>1</sup>					Budget Bid				
	2012/13	2013/14	2014/15	2015/16	2015/16	2012/13 (budget) £k	2012/13 (forecast) £k	Year 1 2013/14 £k	Year 2 2014/15 £k	Year 3 2015/16 £k
BSB overall	60.8	68.3	73.8	73.8	73.8	4,096	4,341	5,136	5,221	5,236
Executive	2.0	3.0	3.5	2.5	2.5	446	502	647	706	608
Strategy	5.0	9.0	10.0	10.0	9.0	340	371	687	657	643
PCD	23.5	24.5	25.5	26.5	26.5	1,169	1,471	1,404	1,459	1,479
Education	9.5	11.5	12.5	12.5	12.5	769	819	881	909	913
Qual Regs	8.3	4.3	4.3	4.3	4.3	322	262	240	213	213
Prof Prac	7.0	7.0	9.0	9.0	9.0	543	528	665	652	716
Quality	3.5	7.0	7.0	7.0	8.0	198	277	399	448	485
QASA	2.0	2.0	2.0	2.0	2.0	309	111	213	177	179

7. This represents an increase in year one in direct costs over this year's original budget of 27.5%. FC members will be aware however that an in-year uplift has been agreed, and year

<sup>1</sup> Excluding contract staff and paid office holders.

one therefore represents an increase in direct costs of **20.1%** over year-end forecast for 2012/13. The year-on-year increases in years two and three are projected to be **0.0%** and **0.3%** respectively. BSB direct costs consist predominantly of staff costs and Annex 4 shows the staff cost run rates for the current year and years 1 – 3 of the plan. This makes clear that the real step change in budget provision has already been made in 12/13. By the end of the current year, we will already have reached the level of spend for which we are bidding in 2013/14.

8. Over the three year period, **BSB regulatory income is projected to increase from the current year's forecast of £1.23m to £1.755m (43%) in year one, £1.57 in year two and £1.68m in year three.**
9. Overall, the investment will start to build the return of
  - A specialist public interest regulatory regime which promotes the unique and invaluable role of the Bar and advocacy in the upholding of the constitutional principle of the rule of law in England and Wales
  - A regulatory regime which allows the market to develop in a way which can give consumers access to justice at lower costs and generally greater choice of service provision
  - A more modern and efficient regulator focussed on proportionate, risk and evidence-based, transparent and value for money regulatory activity
  - An organisation which a diverse regulated community respects and in which its staff are proud to work.
10. Risks to the achievement of the strategic aims (and thereby potentially to the statutory regulatory objectives) fall into three broad areas. The first set of risks relates to non-delivery of our new regulatory frameworks, whether through delays and inefficiencies caused by parties we cannot wholly control, our own inefficiency, or lack of take-up in the market and regulated community of the opportunities our new frameworks will offer. The second set of risks relates to the general economic climate and the particular circumstances of the publicly-funded Bar and the impact these have on the context in which we are setting and quality assuring standards in the regulated community. Finally, there is a set of risks around our external relationships, the sustainability of our resource requirements and the extent and nature of the change programme itself. Mitigation strategies are set out in more detail in the strategic and business plans.
11. It is important to understand that the provision being made in this budget is intrinsically linked to the BSB's capacity to continue to perform its statutory regulatory role for the Bar. If we fail to make the critical investment in key areas of capability, the LSB will not approve major revisions to our regulatory arrangements such as the new Code, public access or entity regulation. The overall self- assessment of the BSB in relation to the standards framework, as agreed by the GRA committee and reported to the Board, will be "needs improvement and work has started recently. " In respect of the segments of the assessment the ratings, with which the LSB is likely to concur, will be as follows:



Outcomes-focussed regulation	Needs improvement and work has started recently
(regulatory) Risk assessment	Needs improvement and work has started recently
Supervision	Recognise this needs to be done but work has not yet started
Enforcement	Needs improvement and work is well underway
Capacity and capability	Needs improvement and work has started recently

12. The Board aims for a one step improvement in the ratings by March 2014, which will take one area, enforcement, to a "satisfactory" rating. The aim thereafter is to achieve and maintain "satisfactory" ratings against all areas of assessment.
13. It should therefore be clear that the Board does not consider the present budget proposals as in any way overstated and believes they satisfy the requirements under s30(3) of the LSA07.

**What will the BSB's investment buy?**

14. Inevitably, most of the additional investment is in the human resources needed to enhance our capacity and capability in key areas. Some new posts are for areas where under-resourcing is currently acute – central examinations, for example (2 new posts in year one, already agreed). Others build capacity in relation to agreed new regulatory activity – QASA and supervision, entity regulation (3.5 new posts in year one; all previously agreed in proposals before FC in relation to both areas of work). Finally, but most importantly, improved capacity driven by the requirements of the regulatory standards framework, enhanced communications resource and urgent activity such as remedial work on the disciplinary system account for 7.5 new posts.

**BAR COUNCIL**

**2013 - 14 PCF APPLICATION TO THE LSB**

**3.2 ALLOCATION OF PCF INCOME**

2013budgetpcfallocationlsb

	<b>Exc. CS</b>	<b>CS</b>	<b>Total</b>
	<b>Alloc.</b>	<b>Alloc.</b>	
	<b>£000</b>	<b>£000</b>	<b>£000</b>
<b>Expenditure</b>			
Regulation	5,256.2	2,898.8	8,155.0
Corporate	932.7	697.5	1,630.2
Representation	3,129.6	1,534.4	4,664.0
	-----	-----	-----
<b>Total</b>	<b>9,318.5</b>	<b>5,130.7</b>	<b>14,449.2</b>
	-----	-----	-----
<b>Funded by:</b>			
<b>PCF</b>			
Regulation	3,624.2	1,998.8	5,623.0
Permitted purposes:			
Corporate	568.6	558.0	1,126.6
Representation	1,299.6	907.2	2,206.8
	-----	-----	-----
<b>Total</b>	<b>5,492.4</b>	<b>3,464.0</b>	<b>8,956.4</b>
	-----	-----	-----
<b>Other Income</b>			
Regulation	1,632.0	900.0	2,532.0
Corporate	364.1	139.5	503.6
Representation	1,830.0	627.2	2,457.2
	-----	-----	-----
<b>Total</b>	<b>3,826.1</b>	<b>1,666.7</b>	<b>5,492.8</b>
	-----	-----	-----
<b>Total Income</b>	<b>9,318.5</b>	<b>5,130.7</b>	<b>14,449.2</b>
	-----	-----	-----

## BAR COUNCIL

### 2013 -14 PCF APPLICATION TO THE LSB

#### 4.1 – INFORMATION SENT TO BARRISTERS CHARGED WITH PAYING THE PCF

2013budgetclaritylsb

The following information will be sent to all practising members of the Bar in 2013:

- Letter of Notification of PCF payable: see 4.2 attached;
- Schedule of PCF Policy and Guidance: see 4.3 attached; &
- Letter from the Bar Council Treasurer: see 4.4 attached.

These are all in draft – final versions will be prepared in January/early February. In addition, a final copy of the Budget and PCF proposal will be placed on the Bar Council website.



## 2013 – 14 PCF APPLICATION TO THE LSB

### 4.2 Letter of Notification of PCF payable

2013budgetletterofnotificationpcf

«Members\_Names\_multiline»

Friday, 24 February 2012

«Organisation»

«Address\_1»

«Address\_2»

«Address\_3»

«Town»

«County»

«Postcode»

«Country»

User Number:

«Member\_Contact\_Number»

«Salutation»

Your attention is drawn to the accompanying "Schedule of Practising Certificate Fees 2013/14 – Policy and Guidance" which contains important pertinent guidance and policies relating to the Authorisation to Practice (AtP) process. Also attached is a letter from the Treasurer of the Bar Council regarding the Practising Certificate Fee for 2013/14.

#### Your fee

Type	Description	Amount Due
	Practising Certificate Fee and Members' Services Fee	£«Balance»
<b>Total Amount Due by 1 April 2013</b>		<b>£«Balance»</b>

The due date for your 2013/14 practising certificate is **1 April 2013**. A surcharge will apply if due fees are not paid by this date. For further details of your fees are compiled, please refer to the accompanying schedule.

#### Your Barrister Connect online account

Your user number is xxxxxx

In order to apply for your practising certificate or delegate permission for your chambers or employer to complete the process on your behalf, please go to <http://www.barristerconnect.org.uk>.

If you are unable to remember your password please click on the forgotten password link on the home page. An email will then be sent to your registered email address in order that this may be re-set.

**THE BAR COUNCIL**  
[www.barcouncil.org.uk](http://www.barcouncil.org.uk)

289-293 High Holborn, London WC1V 7HZ DX: 240 LDE Tel: 020 7242 0082 Fax: 020 7831 9217

If you have any difficulty with creating your account or password, please contact the Records Office on 020 7242 0934 or email [Records@BarCouncil.org.uk](mailto:Records@BarCouncil.org.uk).

If you do not have computer access you should contact the Records Office by telephone on 020 7242 0934.

### **Members' Services Fee (MSF)**

The MSF remains unchanged for the fourth successive year. Income from the PCF can only be applied in accordance with s51 of the Legal Services Act 2007 as amplified by the Legal Services Board. Consequently, representational activity that falls outside these 'permitted purposes' must be funded separately and this is achieved through the voluntary Members' Services Fee (MSF). Payment of the MSF enables the Bar Council to respond to the increasing demand for a more comprehensive range of representational activity, which includes Remuneration (both policy and fees), International work, ADR, Direct Access, Legal Services, Training for the Bar and Fee Collection. Those who pay the MSF also gain access to a range of affinity products and discounts the savings associated with which can readily exceed the cost of the MSF.

If you have any queries or difficulties relating specifically to your PCF please contact the Records Office by email - [records@barcouncil.org.uk](mailto:records@barcouncil.org.uk), or by telephone number 020 7242 0934. Any queries relating to the MSF should be addressed to [MemberServices@barcouncil.org.uk](mailto:MemberServices@barcouncil.org.uk) or call 020 7611 1329.

Yours sincerely



Oliver Delany  
Director Central Services

**BAR COUNCIL**

**2013 – 14 PCF APPLICATION TO THE LSB**

**4.3 SCHEDULE OF PCF POLICY AND GUIDANCE**

2013budgetpcfpolycyguidancelsb



**Schedule of Practising Certificate Fees 2013/14  
Policy and Guidance**

**Authorisation to practise regime**

The Bar Standards Board (BSB) has a formal process for the annual renewal of practising certificates. This modernises the authorisation process and brings arrangements into compliance with the Legal Services Act 2007 ("the Act"). Section 13(2) requires individuals wishing to provide reserved legal activities as barristers to be authorised by their approved regulator. Under section 14 of the Act, it is a criminal offence for a barrister to carry on a reserved legal activity unless they are authorised to do so by a practising certificate.

The Practising Certificate Rules (PCRs) (which are to be found at (link required)) within the Code of Conduct set out the eligibility conditions for obtaining a practising certificate, the application process, the authorisations granted by practising certificates and the arrangements for the review of contested decisions.

**Making an application**

For those barristers who require a practising certificate, the authorisation regime requires an individual to:

- Verify current contact details
- Verify practising status and entitlement to exercise reserved legal activities
- Confirm completion of the requisite number of continuing professional development (CPD) hours
- Declare that they have and will maintain such insurance as may be required under the Bar Code of Conduct
- Pay the practising certificate fee (PCF), and
- Sign a declaration of truth, which is designed to ensure understanding of the process and new system.

In order to grant authorisation and in accordance with Rule 6 of the PCRs, the Bar Council may request additional information to support an individual's application, this could be evidence of insurance, completion of CPD, low income etc.

The PCRs now also detail those circumstances whereby a practising certificate may be withheld, refused or revoked. For the avoidance of doubt, the circumstances where the Records Office will refuse or revoke a certificate is defined as a policy (which is to be found at (link required)). An application can be made to the BSB's Qualifications Committee to

review any decision in relation to refusal, amendment and revocation of a practising certificate.

### **How to apply for Authorisation to Practice**

Applying for authorisation is now an online process. Exceptions will be made for those who have a disability, which makes accessing the information on the website difficult. Any individual who, due to a disability, needs an application form in a different format, should contact the Records Office on 020 7242 0934 or email [Records@BarCouncil.org.uk](mailto:Records@BarCouncil.org.uk).

### **Your Barrister Connect online account**

All practitioners are required to have a password protected individual online account to complete authorisation. Thereafter, authority may be delegated within chambers or to an employer, in order to enable them to complete authorisation on behalf of an individual or groups of individuals. The AtP process will be initiated by a letter or email communication, to every individual practitioner, from the Bar Council Records Office, providing a user number.

If you are unable to remember your password please click on the forgotten password link on the home page of the above site. An email will then be sent to your registered email address in order that this may be re-set. Please remember to check your delegation if you have changed chambers or employers. If you are creating an online account for the first time you should contact the Records Office on 020 7242 0934 or email [Records@BarCouncil.org.uk](mailto:Records@BarCouncil.org.uk) to obtain an initial password that you can then amend, if required.

Barristers are entirely responsible, even when delegated permission has been granted to chambers or an employer to complete the process, for the contents of their respective application and any supporting documentation.

### **Application deadline and defaulters**

The due date for renewal of practising certificates for 2013/14 is **1 April 2013**. All those who require a practising certificate and have not completed all or part of the process by 1 April 2013 will be liable to pay a surcharge of 20% of the Practising Certificate Fee. Moreover, those who do not complete the authorisation process by 1 May 2013, will not be listed on the BSB Register and will not be authorised to practise. Consequently, from 1 May 2013, any barrister believed to be practising without a certificate will be reported to the BSB, who will take such action as is considered appropriate.

As offering reserved legal services without a practising certificate is both a criminal offence as well as being a breach of the Code, the Bar Council will contact respective Heads of Chambers or employer to alert them of any offenders.

All individuals returning to practise part way through the practising certificate year must be authorised to practise before exercising any reserved legal activities.

### **How the Practising Certificate Fee (PCF) is compiled**

The compulsory PCF funds the expenditure that falls within the 'permitted purposes' as defined by the LSB in accordance with s51 of the Act and the rules made there under. The latter includes the stipulation that the Bar Council must obtain LSB approval of its budget and associated PCF proposals. A copy of the 2013/14 budget is on the Bar Council website: [www.barcouncil.org.uk](http://www.barcouncil.org.uk).

At the end of each financial year, the Bar Council publishes its *Annual Report and Accounts*, which includes comprehensive narrative on past performance and future expectations, externally audited figures of income and expenditure and an analysis as to how PCF income is allocated against the 'permitted purposes' expenditure: see below.

Income from payment of the Practising Certificate Fee (PCF) can only be applied in accordance with the permitted purposes as defined in s51 of the Legal Services Act 2007. Representational activity which falls outside the 'permitted purposes' must be funded separately. Payment of the voluntary Members' Services Fee (MSF) enables the Bar Council to provide a wider range of representational activities, across the following areas: remuneration (both policy and fees), public affairs, international work, ADR, direct access, legal services and the support of the Young Barristers and Employed Barristers' Committees. In addition, a barrister who takes advantage of the benefits negotiated by the Member Services team could save considerably more than the cost to themselves of the MSF.

The PCF is made up of three distinct elements:

- **Core Fee**
- **Staff Defined Benefit (DB) Pension Scheme levy**
- **Combined LSB and Legal Ombudsman (LeO) levies**

#### **Bar Council Core Fee**

The Core Fee covers all activities undertaken by the Approved Regulator, the Bar Standards Board (BSB) and such representational functions as fall within the permitted purposes.

The core fee for 2013/14 is as follows (2012/13 in brackets):

<b>Self-employed Core Fee (12 months)</b>		
	<b>Core Fee £</b>	<b>MSF £</b>
QC	1,202 (1,058)	150 (150)
Junior (13 years' Call and over)	813 (716)	100 (100)
Junior (eight to 12 years' Call)	417 (367)	100 (100)
Junior (five to seven years' Call)	222 (195)	100 (100)
Junior (three to four years' Call)	80 (70)	100 (100)
Junior (one to two years' Call)	80 (70)	50 (50)

<b>Employed Core Fee (12 months)</b>		
	<b>Core Fee £</b>	<b>MSF £</b>
QC	877 (750)	150 (150)
Junior (13 years' Call and over)	615 (527)	100 (100)
Junior (eight to 12 years' Call)	340 (295)	100 (100)
Junior (five to seven years' Call)	183 (159)	100 (100)
Junior (three to four years' Call)	80 (70)	100 (100)
Junior (one to two years' Call)	80 (70)	50 (50)

Barristers who hold dual capacity status will be billed at the self-employed Bar rate. Registered European lawyers will pay either the self-employed or employed rate depending upon the capacity in which they are practising. All employed barristers who require a practising certificate will pay the employed rate, regardless of their practising rights.

For band allocation purposes, seniority is calculated by the year of Call that a practitioner will attain during the fee period in question e.g. a barrister called during the course of 2004 will



on 1 April 2013 be deemed to be of nine years' Call and therefore will be in the category of junior eight to 12 years' Call.

Similarly, an individual who is awarded QC during the period 1 April 2013 to 31 March 2014 will be required to pay the difference, on a pro rata basis, between the junior – 13 years' Call and over fee and the QC fee as from the date of taking silk.

#### **Staff Defined Benefit Pension Scheme levy**

First introduced in 2010, the Bar Council Staff Defined Benefit Pension Scheme (the Scheme) levy arises from the statutory obligation to fund the past service deficit as calculated by the Scheme Actuary. The Scheme has been running since 1974 and over the years the costs of pension provision has risen steadily. To address the rising costs, the Scheme was closed to new members in 2006. It will close to new accrual on 28 February 2013. The majority of the staff concerned have transferred, or will transfer, to the Bar Council's Defined Contribution Scheme.

The Annual Actuarial Report as at 1 October 2011, issued by the Scheme Actuary, calculated that the current deficit on the Scheme is £8,144,000 assuming that the Scheme is not wound up. A triennial review of the Scheme, as of 1 October 2012, is currently being undertaken by the Scheme Actuary. The preliminary indications are that the deficit has grown further. The sum of £5.9m raised by the 2010, 2011 and 2012 pension levies is being applied by the Trustees to address this liability.

The pension levy has been calculated for each barrister by reference to years of Call. Starting from 1974, for each year of Call there will be a levy of £3 (2012/13 - £2). Thus the levy will range from zero for newly qualified barristers who have had no benefit from the staff, to £117 for the most experienced barristers who have had the capped maximum of 39 years' support from staff. It is estimated that this levy will raise approximately £627,000. Further levies will be required in 2014/2015 and beyond, although the precise sums involved will not be known until the results of the triennial valuation as above are received (expected in Spring 2013).

<b>Staff DB Pension Scheme levy 2013/14 – examples</b>		
<b>Year of Call</b>	<b>Years' Call in 2013</b>	<b>Pension levy £</b>
2010	2	6
1997	15	45
1987	25	75
1982	30	90
1977	35	105
1974 and previously	39	117

#### **Legal Services Board (LSB) and Legal Ombudsman (LeO) levies**

The Bar Council has a statutory obligation to pay an agreed proportion of the initial set up and, thereafter, the running costs of both the LSB and LeO. The total sum to be raised in 2013/14 is £330,000 after allowing for surplus receipts retained from earlier years. (Normally, the Bar Council's share of the annual running costs for the LSB/LeO is of the order of £900,000.) These costs have been allocated across the profession on the same ratio as the core fee bandings as indicated in the following table:

<b>Self-employed/employed LSB and LeO levies 2013/14 (2012/13 in brackets) £</b>	
QC	42 (140)
Junior (13 years' Call and over)	29 (95)
Junior (eight to 12 years' Call)	14 (47)
Junior (five to seven years' Call)	8 (25)
Junior (three to four years' Call)	3 (10)
Junior (one to two years' Call)	3 (10)

**Reduced fees for relatively low income**

A reduced fee structure will apply for self-employed and employed barristers, of five years' Call and over, whose gross annual income from practice in the 12 months preceding the fee due date is less than £40,000 and £30,000 respectively.

The concession allows an individual in the top three bands to apply online to pay the Core Fee element of the PCF applicable to the band below that which would normally apply e.g. a juniors in the eight to 12 years' Call band can apply to pay those rates for the Core Fee that apply to a junior in the five to seven years' Call band. It is of paramount importance to note that any such application cannot be delegated and must be made by the individual concerned. Those in receipt of a low income waiver do not qualify for any further discount.

For those in the five to seven years' Call band the Core fee is reduced to £141 for the Self Employed Bar and £107 for the Employed Bar and for those in the one to four years' Call band there is no reduction.

With regard to the pension levy, a standard £6 (equivalent to two years) reduction will be given to those who apply for the income waiver. Additionally, those who have disbarred by request during any period from 1974 onwards will be given a reduction of £3 per annum for each year spent away from the profession.

There is no low-income waiver on the LSB/LeO levies. There is no low income waiver on the MSF.

Any individual who is working exclusively for a charity will be entitled to pay no more than the full rate for the Core Fee that is applicable to those in the five to seven years' Call band.

An example of how the waivers work is given below:

**Self-employed**

	<b>Core fee £</b>	<b>Core fee reduced rate £</b>	<b>LSB/LeO levy (no waiver) £</b>	<b>Pension reduction</b>	<b>Practising Certificate Fee due</b>
QC	1,202	813	42	Total number of years' Call - two years x £3	CF + LSB/LeO + Pension levy
Junior (13 years' Call and over)	813	417	29	Total number of years' Call - two years x £3	CF + LSB/LeO + Pension Levy
Junior (eight to 12 years')	417	222	14	Total number of	CF + LSB/LeO + Pension levy

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Call)				years' Call - two years x £3	
Junior (five to seven years' Call)	222	80	8	Total number of years' Call - two years x £3	CF + LSB/LeO + Pension levy

## Employed

	Core Fee £	Core Fee reduced rate £	LSB/LeO levy (no waiver) £	Pension reduction	Practising Certificate Fee due
QC	877	615	42	Total number of years' Call - two years x £3	CF + LSB/LeO + Pension levy
Junior (13 years' Call and over)	615	340	29	Total number of years' Call - two years x £3	CF + LSB/LeO + Pension levy
Junior (eight to 12 years' Call)	340	183	14	Total number of years' Call - two years x £3	CF + LSB/LeO + Pension levy
Junior (five to seven years' Call)	183	80	8	Total number of years' Call - two years x £3	CF + LSB/LeO + Pension levy

Applications for a reduction on grounds of low income should be made online. The Bar Council will check the applications and if so requested, proof of income or salary will be required.

## Pupil barristers

Pupil barristers do not pay a fee for a provisional practising certificate, which is valid until the 31 March after the proposed end date of their practising pupillage (2<sup>nd</sup> Six). After expiry of this certificate, pupils pay the relevant PCF in accordance with their year of Call.

## How to pay

Fee payment should be made online, through one of a number of different methods. Please note that, consequent upon the introduction of the new Practising Certificate Requirements and associated authorisation regime, there is no instalment payment facility.

- Debit/credit card
- Chambers or employer block payment

### Debit and credit cards

Visa, Visa Debit (Delta), Visa Electron, MasterCard and UK Maestro are accepted.

### Direct Debit

We have withdrawn the facility to pay by direct debit as the Authorisation to Practise process accepts payments by credit and debit cards and you receive your Practising Certificate instantly. This reduces the cost of administrating the AtP process.

### Chambers or employer block payment

Individuals wishing to be part of their chambers' or employer's block payment arrangements must first create an individual online account and then delegate permission to the respective chambers or employer to complete the authorisation process, including paying the relevant fee. However, **all barristers retain responsibility for the contents of any application submitted on their behalf**. In some cases a set of chambers or employer may pay the fee, leaving the practitioner with responsibility for completing the remainder of the process before authorisation to practise can be granted.

The deadline for block authorisation is **15 March 2013**.

### Discounts for block payment

A 2.5% discount is available on both the whole of the PCF as well as the MSF where a set of chambers (but not sole practitioner) or employer makes a single block payment on behalf of five or more of its barristers. A set of chambers or employer that makes a block payment for 100 or more barristers will receive a discount of 5%. Individuals who receive a low-income waiver are not eligible for the block payment discount.

### **Ceasing practise or changing status – refunds and additional charges**

The Records Office must be given prior notification of any change of status, either in writing or via the online account **within 28 days**.

Any such change that generates an entitlement to a refund (see below) or incurs an additional charge will be subject to the following policy: Provided that notification of the change has taken place within the 28-day window, any refund due will be applied as of the date of the change. In the event that notification is made later than 28 days, the refund will apply from the date of notification rather than the date of change. Whereas, any additional fee due will always be applied as at the date of the change regardless of date of notification.

The Bar Council will pay any refund, usually by bank electronic transfer, due within 14 days of notification of the change and equally requires any additional charge to be paid within 14 days of the request for payment.

A barrister who changes from self-employed to employed or vice versa will be either refunded or charged the pro rata difference in the Core Fee.

Any barrister who changes their status to unregistered (formerly known as non-practising) will receive a pro rata refund of the Core Fee element of the PCF, plus the MSF if they cease practise in the first three months of the practising certificate year. No refund will be issued for the levies, as they relate to a statutory obligation.

While it is the policy of the Bar Council's Equality and Diversity Committee to encourage a practitioner taking maternity leave or additional paternity leave to maintain a practising certificate, an exception will be made to the foregoing for those who wish to suspend their practising certificates during maternity leave or additional paternity leave. Individuals on maternity leave or additional paternity leave, regardless of date, will on request be granted a pro rata refund, of the Core Fee element of the PCF and also the MSF. No refund will be issued for the levies.

### **Returning to practise**

An individual who either returns to, or commences practise after, 1 April 2013 will be charged a pro rata proportion of the Core Fee plus the levies in full. Such individuals may also be eligible to apply for a low income waiver.

Individuals who have ceased practice and/or are retired who wish briefly to return to practice for a day case or something similar, must pay pro rata the appropriate Core Fee for the entire month or months into which the practising dates fall plus the levies in full.

**Annual personal data validation/Privacy Policy**

Once an individual has set up their online account the opportunity will exist to access and amend personal records in part at any time. However, annually in November, the Bar Council will, in anticipation of the authorisation renewal cycle, prompt individuals to validate their personal records.

The Bar Council's Privacy Policy (which is to be found at (link required)), details how the Bar Council will utilise personal data.

**Bar Pro Bono Unit (BPBU)**

When you access your account, you will also be given the opportunity to make a minimum donation of £30 to the BPBU. All such donations will be passed on by the Bar Council to the BPBU at the end of the renewal cycle. If you are unable to make a donation to the BPBU on this occasion, the facility to do so will remain open throughout the year.



## **Practising Certificate Rules**

### **The practising certificate year**

1. In these rules, “practising certificate year” refers to the period from 1 April in any calendar year to 31 March in the next calendar year.

### **Eligibility for practising certificates**

2. You are eligible for a practising certificate if:
  - 2.1 you are a barrister or a registered European lawyer and you are not currently suspended from practice and have not been disbarred;
  - 2.2 you meet the requirements of rule 3.1, 3.2, 3.3 or 3.4 below; and
  - 2.3 if you are a barrister and 5 or more years have elapsed since:
    - (a) you last held a practising certificate; or
    - (b) you satisfactorily completed (or were exempted from the requirement to complete) either the non-practising period of 6 months of pupillage or 12 months of pupillage

you have complied with such training requirements as may be imposed by the Bar Standards Board.
3. You are eligible for:
  - 3.1 a full practising certificate if either:
    - (a) you have satisfactorily completed 12 months pupillage; or
    - (b) you have been exempted from the requirement to complete 12 months of pupillage; or
    - (c) on 30 July 2000, you were entitled to exercise full rights of audience by reason of being a barrister; or

- (d) you were called to the Bar before 1 January 2002 and you complied with sub-paragraphs 1102(a) and (b) of the 8th Edition of this Code before 31 March 2012;
- 3.2 a provisional practising certificate if you have satisfactorily completed (or have been exempted from the requirement to complete) the non-practising period of 6 months of pupillage and at the time when you apply for a practising certificate you are registered as a pupil;
- 3.3 a limited practising certificate if:
  - (a) you have not completed (or been exempted from the requirement to complete) 12 months of pupillage; but
  - (b) you were called to the Bar before 1 January 2002; or
- 3.4 a registered European lawyer's practising certificate if you are a registered European lawyer.

#### **Applications for practising certificates**

#### 4. You may apply for a practising certificate by:

- 4.1 completing the application form supplied by the Bar Council (acting by the Bar Standards Board) and submitting it to the Bar Council (acting by the Bar Standards Board); and
- 4.2 submitting such information in support of the application as may be prescribed by the Bar Council (acting by the Bar Standards Board); and
- 4.3 paying (or undertaking to pay in a manner determined by the Bar Council) the appropriate practising certificate fee in the amount determined in accordance with rule [9] below (subject to any reduction pursuant to rule [8] below).

before the practising certificate is issued.

- 5. An application will only have been made once the Bar Council (acting by the Bar Standards Board) has received the application form in full, with payment in accordance with rule 4.3 together with all the information required in support of the application and confirmation from you in the form of a declaration that the information contained within, or submitted in support of, the application is full and accurate.
- 6. On receipt of the application, the Bar Council (acting by the Bar Standards Board) may require, from you or a third party, such additional information, documents or references as it considers appropriate to the consideration of your application.



7. You are personally responsible for the contents of your application and any information submitted to the Bar Council (acting by the Bar Standards Board) by you or on your behalf and you must not submit (or cause or permit to be submitted on your behalf) information to the Bar Council (acting by the Bar Standards Board) which you do not believe is full and accurate information.
8. When applying for the renewal of a practising certificate, you may, by completing the form supplied for that purpose by the Bar Council, apply to the Bar Council for a reduction in the practising certificate fee payable by you if your gross fee income or salary is less than such amount as the Bar Council may decide from time to time.

**Practising certificate fees**

9. The practising certificate fee shall be the amount or amounts prescribed in the Schedule of Practising Certificate Fees issued by the Bar Council from time to time, and any reference in these Rules to the “appropriate practising certificate fee” or the “practising certificate fee payable by you” shall refer to the amount payable by you pursuant to that Schedule, having regard, inter alia, to:
  - 9.1 the different annual practising certificate fees which may be prescribed by the Bar Council for different categories of barristers, e.g. for Queen’s Counsel and junior counsel, for barristers of different levels of seniority, and/or for barristers practising in different capacities (i.e. self-employed barristers, employed barristers, managers or employees of authorised bodies or barristers practising with dual capacity);
  - 9.2 any reductions in the annual practising certificate fees which may be permitted by the Bar Council in the case of practising certificates which are valid for only part of a practising certificate year;
  - 9.3 any discounts from the practising certificate fee which may be permitted by the Bar Council in the event of payment by specified methods;
  - 9.4 any reduction in or rebate from the practising certificate fee which may be permitted by the Bar Council on the grounds of low income, change of category or otherwise; and
  - 9.5 any surcharge or surcharges to the practising certificate fee which may be prescribed by the Bar Council in the event of application for renewal of a practising certificate being made after the end of the practising certificate year.
10. If you have given an undertaking to pay the practising certificate fee, you must comply with that undertaking in accordance with its terms.

**Issue of practising certificates**

11. The Bar Council (acting by the Bar Standards Board) shall not issue a practising certificate to a barrister or a registered European lawyer:
  - 11.1 who is not eligible for a practising certificate, or for a practising certificate of the relevant type;
  - 11.2 who has not applied for a practising certificate; or
  - 11.3 who has not paid (or undertaken to pay in a manner determined by the Bar Council) the appropriate practising certificate fee; or
  - 11.4 who is not insured against claims for professional negligence as provided for in paragraph 204(c) of the Code of Conduct and, if and insofar as applicable, paragraph 6 of the International Practice Rules or paragraph 4(2) of the Registered European Lawyers Rules.
  
12. The Bar Council (acting by the Bar Standards Board) may refuse to issue a practising certificate, or may revoke a practising certificate, if it is satisfied that the information submitted in support of the application for the practising certificate is incomplete, inaccurate or incapable of verification, or that the barrister or registered European lawyer:
  - 12.1 is not insured against claims for professional negligence as provided for in paragraph 204(c) of the Code of Conduct and, if and insofar as applicable, paragraph 6 of the International Practice Rules or paragraph 4(2) of the Registered European Lawyer Rules;
  - 12.2 in the case of a barrister who is insured by the Bar Mutual Indemnity Fund, has failed to pay any insurance premium when due;
  - 12.3 has failed and continues to fail to pay a practising certificate fee when due;
  - 12.4 has not complied with any of the requirements of the Continuing Professional Development Regulations applicable to him; or
  - 12.5 would be, or is, practising in breach of the provisions of paragraphs 203, 204, 205, 401, 501, 502 or 503 of the Code of Conduct.
  
13. When the Bar Council (acting by the Bar Standards Board) issues a practising certificate, it shall:
  - 13.1 inform the barrister or registered European lawyer of that fact; and

- 13.2 publish that fact, the name and address of the barrister or registered European lawyer and the other details specified in rule 14 below in the register on the Bar Standards Board's website
14. A practising certificate shall state:
  - 14.1 the name of the barrister or registered European lawyer;
  - 14.2 the period for which the practising certificate is valid;
  - 14.3 the reserved legal activities which the barrister or registered European lawyer to whom it is issued is thereby authorised to carry on;
  - 14.4 the capacity (or capacities) in which the barrister or registered European lawyer practises; and
  - 14.5 whether the barrister or registered European lawyer is registered with the Bar Council as a Public Access practitioner.
15. A practising certificate may be valid for a practising certificate year or part thereof and for one month after the end of the practising certificate year.
16. A full practising certificate shall authorise a barrister to exercise a right of audience before every court in relation to all proceedings.
17. A provisional practising certificate shall authorise a barrister to exercise a right of audience before every court in relation to all proceedings.
18. A limited practising certificate shall not authorise a barrister to exercise a right of audience, save that it shall authorise a barrister to exercise any right of audience which he had by reason of being a barrister and was entitled to exercise on 30 July 2000.
19. A practising certificate issued to an employed barrister or to a barrister who is a manager or an employee of an authorised body (or to a registered European lawyer who is employed or who is a manager or an employee of an authorised body) shall authorise the barrister (or the registered European lawyer) to conduct litigation in relation to every court and all proceedings if the barrister:
  - 19.1 has spent a period of at least twelve weeks working under the supervision of a qualified person (as defined in rule 3 of the Employed Barristers (Conduct of Litigation Rules)); or
  - 19.2 has been exempted from this requirement by the Bar Standards Board on the grounds of his relevant experience.

20. Every practising certificate issued to a barrister shall authorise the barrister to carry on:
  - 20.1 reserved instrument activities;
  - 20.2 probate activities; and
  - 20.3 the administration of oaths; and
  - 20.4 immigration advice and services
21. A registered European lawyer's practising certificate shall authorise a registered European lawyer to carry on the same reserved activities as a full practising certificate issued to a barrister, save that:
  - 21.1 A registered European lawyer is only authorised to exercise a right of audience or a right to conduct litigation if he acts in conjunction with a solicitor or barrister who is entitled to practise before the court, tribunal or public authority concerned and who could lawfully exercise that right.
  - 21.2 Unless he has a home professional title obtained in Denmark, the Republic of Ireland, Finland, Sweden, Iceland, Liechtenstein, Norway, the Czech Republic, Cyprus, Hungary or Slovakia, a registered European lawyer is not authorised to prepare for remuneration any instrument creating or transferring an interest in land.

#### **Amendment and revocation of practising certificates**

22. You must inform the Bar Council (acting by the Bar Standards Board) as soon as reasonably practicable, and in any event within 28 days if any of the information submitted in support of your practising certificate application form:
  - 22.1 was incomplete or inaccurate when the application form was submitted; or
  - 22.2 changes before the expiry of your practising certificate.
23. If you change the capacity in which you practise before the expiry of your practising certificate (e.g. if you change from being an employed barrister or a manager or employee of an authorised body to a self-employed barrister, or vice versa, or if you commence or cease practice in a dual capacity), you must within 14 days of demand by the Bar Council pay to the Bar Council the amount (if any) by which the practising certificate fee which would apply to you in your current status exceeds the practising certificate which you have already paid (or undertaken to pay) to the Bar Council.
24. The Bar Council (acting by the Bar Standards Board) may amend a practising certificate if it is satisfied that any of the information contained in the relevant application form was inaccurate or incomplete or has changed, but may not amend a practising certificate without first:

- 24.1 giving written notice to the barrister or registered European lawyer of the grounds on which the practising certificate may be amended; and
- 24.2 giving the barrister or registered European lawyer a reasonable opportunity to make representations.
25. The Bar Council (acting by the Bar Standards Board) shall endorse a practising certificate to reflect any qualification restriction or condition imposed on the barrister by the Bar Council (acting by the Bar Standards Board) or by a Disciplinary Tribunal, Informal Panel, Interim Suspension Panel or Fitness to Practise Panel.
26. The Bar Council (acting by the Bar Standards Board):
- 26.1 shall revoke a practising certificate:
- (a) if the barrister or registered European lawyer is disbarred or suspended from practice as a barrister or registered European lawyer;
  - (b) if the barrister has notified the Bar Council or the Bar Standards Board that he no longer wishes to have a practising certificate; and
- 26.2 may revoke a practising certificate:
- (a) in the circumstances set out in rule 12 above; or
  - (b) if the barrister or registered European lawyer has given an undertaking to pay the practising certificate fee and fails to comply with that undertaking in accordance with its terms;
- but in either case only after:
- (i) giving written notice to the barrister or registered European lawyer of the grounds on which the practising certificate may be revoked; and
  - (ii) giving the barrister or registered European lawyer a reasonable opportunity to make representations.

**Applications for review**

27. If you contend that the Bar Council (acting by the Bar Standards Board) has:

27.1 wrongly failed or refused to issue or amend a practising certificate; or

27.2 wrongly amended or revoked a practising certificate, pursuant to these Rules

then you may lodge an application for review with the Qualifications Committee of the Bar Standards Board using the form supplied for that purpose by the Bar Standards

Board. For the avoidance of doubt, this paragraph does not apply to any amendment or revocation of a practising certificate made by order of Medical or Review Panel, a Disciplinary Tribunal or the Visitors to the Inns of Court.

28. The Bar Council (acting by the Bar Standards Board) may issue a temporary practising certificate to a barrister who has lodged an application for review.
29. If the Qualifications Committee finds that the Bar Council (acting by the Bar Standards Board) has wrongly failed or refused to issue a practising certificate, then the Bar Council (acting by the Bar Standards Board) shall issue such practising certificate as ought to have been issued.
30. If the Qualifications Committee finds that the Bar Council (acting by the Bar Standards Board) has wrongly failed or refused to amend a practising certificate, then the Bar Council (acting by the Bar Standards Board) shall make such amendment to the practising certificate as ought to have been made.
31. If the Qualifications Committee finds that the Bar Council (acting by the Bar Standards Board) has wrongly amended a practising certificate, then the Bar Council (acting by the Bar Standards Board) shall cancel the amendment.
32. If the Qualifications Committee finds that the Bar Council (acting by the Bar Standards Board) has wrongly revoked a practising certificate, then the Bar Council (acting by the Bar Standards Board) shall re-issue the practising certificate.



## **Issuing and Revoking Practising Certificates**

Rule 11 and 12 of the Practising Certificate Rules set out the circumstances whereby the Bar Council (acting by the Bar Standards Board) shall not issue a practising certificate or may refuse to issue or revoke a practising certificate, if it is satisfied that the information submitted in support of the application for a practising certificate is incomplete, inaccurate or incapable of verification.

### **Circumstances when a practising certificate shall not be issued**

Where either the barrister or registered European lawyer:

- (a) is not eligible for a practising certificate, or for a practising certificate of the relevant type
- (b) has not applied for a practising certificate
- (c) has not paid (or undertaken to pay in a manner determined by the Bar Council) the appropriate practising certificate fee, or
- (d) is not insured against claims for professional negligence as provided for in paragraph 204(c) of the Code of Conduct and, if and insofar as applicable, paragraph 6 of the International Practice Rules or paragraph 4(2) of the Registered European Lawyer Rules.

### **Circumstances in which a practising certificate will not usually be granted**

Where either the barrister or registered European lawyer:

- (a) has failed and continues to fail to pay any insurance premium when due;
- (b) has failed and continues to fail to pay practising certificate fees and surcharges incurred previously even if the application is accompanied by the appropriate fee for the forthcoming year;
- (c) has breached the provisions of paragraphs 203, 204, 205, 401, 501, 502 or 503 of the Code of conduct;
- (d) does not provide all the information required in support of the application, even after additional information has been requested

**Circumstances in which a practising certificate will usually be granted**

Where either the barrister or registered European lawyer has not complied with any of the requirements of the Continuing Professional Development Regulations applicable to him<sup>1</sup>

**Circumstances in which a practising certificate will usually be revoked**

Generally, when the Bar Council (acting by the Bar Standards Board) revokes a practising certificate, it is on the basis that circumstances have changed since the practising certificate was initially issued.

Where either the barrister or registered European lawyer:

- (a) is not insured against claims for professional negligence as provided for in paragraph 204(c) of the code of Conduct and, if and insofar as applicable, paragraph 6 of the International Practice Rules or paragraph 4(2) of the Registered European Lawyer Rules as their insurance has expired during the duration of their practising certificate
- (b) in cases where notification is received that the barrister who is insured by the Bar Mutual Indemnity Fund, has failed, and continues to fail, to pay any insurance premium when due
- (c) has failed and continues to fail to pay a practising certificate fee when due, in cases where the fee is paid in instalments
- (d) has breached the provisions of paragraphs 203, 204, 205, 401, 501, 502 or 503 of the Code of conduct, or
- (e) has been issued with a practising certificate due to an administrative error

But only after:

- (i) giving written notice to the barrister or registered European lawyer of the grounds on which the practising certificate may be revoked, and
- (ii) giving the barrister or registered European lawyer a reasonable opportunity to make representations and to remedy the defect.

**Circumstances in which a practising certificate will not usually be revoked**

Where either the barrister or registered European lawyer has not complied with any of the requirements of the Continuing Professional Development Regulations applicable to him<sup>1</sup>

**How decisions will be taken**

The decision as to whether to issue or revoke a practising certificate will usually be made by the Records Manager. Barristers will be able to apply to the Qualifications Committee for a review if they believe that their application for a practising certificate has been wrongly refused or that their practising certificate has been wrongly revoked, in some circumstances a temporary certificate may be issued.

**Approved: Standards Committee, November 2011**

**Annex C1**

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<sup>1</sup> The Bar Standards Board on the 19 May 2011 agreed interim arrangements for handling of non-compliance of CPD up until 2013. Barristers are required to complete CPD hours in accordance with Annexe D of the Code of Conduct and failure to comply with CPD requirements may attract disciplinary sanctions.





## **Privacy Policy**

The Bar Council ("we/us/our") is committed to protecting and respecting your privacy.

This policy (together with our terms and conditions of use and any other documents referred to) sets out the basis on which any personal data we collect from you, or that you provide to us, will be processed by us. Please read the following carefully to understand our views and practices regarding your personal data and how we will treat it.

For the purpose of the Data Protection Act 1998 (the Act), the data controller is The General Council of the Bar of 289-293 High Holborn, London WC1V 7HZ.

This Privacy Policy sets out the data processing practices carried out by us, including through the use of the internet, all websites operated by us and the Bar Standards Board (BSB), and any other electronic communications networks such as the Barrister Connect (together "our Site"). If you have any requests concerning your personal information or any queries with regard to our personal data processing practices please contact our Data Protection Officer at [Privacy@BarCouncil.org.uk](mailto:Privacy@BarCouncil.org.uk).

### **Meeting your needs**

We can provide our literature in different formats. If you would like this information in a different format, please contact us on 020 7242 0082 or email [Privacy@BarCouncil.org.uk](mailto:Privacy@BarCouncil.org.uk).

### **Information collected**

We collect personal information from visitors to our Site through the use of online forms, including, but not limited to, information about you, which you provide to us through the input areas within our Site such as the practising certificate renewal form on Barrister Connect.

We also collect information about you every time you email us with your details, and we collect additional information automatically about your visits to our Site.

The information we collect may include: name, postal and email address, telephone numbers (work, home and mobile), and diversity monitoring information which we collect for the purposes of discharging our statutory obligations.

We may collect information about your computer, including where available your IP address, operating system and browser type, for system administration and to report aggregate information to our advertisers. This is statistical data about our users' browsing actions and patterns, and does not identify any individual.

We may also use and disclose other information in aggregate for research, marketing and strategic development purposes.

We may also ask you to complete surveys used for research purposes, which you are not obliged to complete but which will be completely confidential and analysed anonymously. Data from research will also be destroyed once it has been analysed and written up in a report.

If you contact us in any other way (for example by post, telephone, fax) we may keep a record of that contact.

We may have cause to contact you by letter, telephone, email or otherwise in relation to the purposes specified in this Privacy Policy. It is, therefore, of fundamental importance that you ensure that your records are kept up to date in accordance with the Code of Conduct, by updating your details via Barrister Connect or by informing the Records Office at [Records@BarCouncil.org.uk](mailto:Records@BarCouncil.org.uk) of any change in your circumstances.

By submitting your personal information you consent to us processing your personal information in accordance with this Privacy Policy.

### **Use of personal information**

We will use personal information, as provided by you or appropriately obtained from third parties (including persons duly authorised by you to provide such information on your behalf), for the purposes listed below:

- to inform you about developments within, or pertaining to, the profession in discharging our Representational and Regulatory functions
- to provide guidance and advice in relation to both Representational and Regulatory matters
- for the management and support of Representational and Regulatory committees (including enabling our committee members to access papers and post comments)
- for the investigation of complaints
- to create and keep updated the Bar Directory/Legal Hub Online Directory and Barristers' Register
- to complete authorisation to practise forms and procedures (including payment of practising certificate fee)
- to enable persons with delegated responsibility for your chambers/employer to complete authorisation to practise forms and procedures on your behalf
- for applications, such as an extension of time to complete CPD hours, or QASA (Quality Assurance Scheme for Advocates) to determine the level to practise advocacy
- for the administration and provision of both education and training services and events
- for the administration of other events such as the Bar Conference and road shows
- for public relations and marketing purposes directly relating to the profession
- for the administration of membership records, including member services, membership card, Xexec and *Counsel* magazine subscriptions
- to keep you up to date with the range of member services, including products and benefits
- to change mailing preferences in relation to purposes other than our Representational or Regulatory functions
- to update personal data, including diversity monitoring data for the purposes of satisfying our statutory duties and meeting our regulatory objectives, and
- in any other respect that we may reasonably require in order to carry out Representational and Regulatory functions or to provide a specific service requested.

### **Sensitive personal information**

We are committed to ensuring that access to the Bar should be equally open to all, irrespective of ethnicity, gender, disability, age, marriage and civil partnership, sexual orientation, gender reassignment, religion or belief and/or socio-economic background. In order to achieve this, as well as to fulfil our statutory equality obligations, we need to monitor the data trends of those entering the Bar so that we can gain a better understanding of how people from a range of backgrounds progress in their careers. We therefore strongly encourage you to submit this information.

We may ask you to submit sensitive personal information, e.g. your ethnic origin or disability information. This information is requested to enable us to meet requirements under the Equality Act 2010. By submitting such sensitive personal information to us, you explicitly consent to the collection and processing of your sensitive personal information in accordance with this Privacy Policy. By submitting such sensitive personal information to us, you agree to us processing such information for the purposes described.

### **Use of sensitive personal information**

Your sensitive personal information will:

- only be used for the purposes of equal opportunities monitoring and other legal requirements
- be kept confidential within the Bar Council and Bar Standards Board and will not be passed to anyone who deals with any aspect of your relationship with the Bar Council (for example, in respect of applications for pupillage or consideration of any complaints against you)
- be destroyed if you are not Called to the Bar within five years, or if you are disbarred or if you subsequently request it, and
- not be released in a form that may result in identification of individuals. Anonymised analyses may be published on the Bar Council and BSB websites.

If we alter these stipulated purposes we will notify you and will destroy your sensitive personal information if you request us to do so in the light of that. If you require further information as to why the Bar Council gathers diversity data from you, please contact the Equality and Diversity team at the Bar Council on 020 7611 1320 or email [EqualOpps@BarCouncil.org.uk](mailto:EqualOpps@BarCouncil.org.uk).

### **Storage and security of personal data**

We will take all necessary reasonable steps to ensure that your data is treated securely and in accordance with this Privacy Policy. All our employees are personally responsible for maintaining personal information confidentiality. We provide education and training to all our staff to remind them about their obligations. Our policies and procedures are audited and reviewed. All information that you provide to us is stored on our secure servers. Any payment transactions will be encrypted (using SSL technology). Unfortunately, the transmission of information via the internet is not completely secure. Although we will do our best to protect your personal data, we cannot guarantee the security of your data transmitted to our Site; any transmission is at your own risk. Once we have received your information, we will use strict procedures and security features to try to prevent unauthorised access.

## **Data Protection accountability**

The Bar Council has appointed a Data Protection Officer responsible for the processing of personal data:

Data Protection Officer  
The Bar Council  
289-293 High Holborn  
London WC1V 7HZ  
[Privacy@BarCouncil.org.uk](mailto:Privacy@BarCouncil.org.uk)

The Bar Council has formally notified the Information Commissioner's Office (ICO) of its personal data processing. These details are publicly available via the ICO website ([www.ico.gov.uk](http://www.ico.gov.uk)). Our registration number is Z6471364.

## **Use of cookies**

We may use cookies on our Site. A cookie is a small piece of information sent by a web server to a web browser, which enables the server to collect information from the browser. This small piece of information will be revealed to us when you visit our Site. Find out more about the use of cookies on: <http://www.allaboutcookies.org/>.

We use cookies to identify you when you visit our Site and monitor your use of our Site, including in order to determine the time of submission of your application. Other than as stated in this Privacy Policy we do not use cookies to collect other additional information about you.

The law about cookies changed in May 2011. Websites must get your agreement before they set a cookie on your computer or handheld device. We are working to find the best way to get your agreement to set cookies without disrupting your experience of our Site.

In the meantime, you should be aware that most browsers allow you to turn off cookies or to receive a warning before a cookie is stored on your hard drive. Please refer to your browser instructions or help screen to learn more about how to do this. However, please note that should you decide to disable any cookies we place on your computer you may not be able to use certain services or facilities on our Site.

## **Disclosures and sharing information**

We will follow the appropriate legal requirements to ensure that no third parties see your personal information except as set out in this Privacy Policy.

Certain Acts of Parliament oblige us to disclose information about our members to certain bodies with statutory powers. For example, we may be required to provide information to the Legal Services Ombudsman and the Office of the Immigration Services Commissioner.

Your information may also be shared with Specialist Bar Associations, Circuits and Inns in order to keep their records up to date and administer your relationship with them.

Sometimes we also need to provide information to external agencies so that they can provide a particular service for us, such as the production of the Bar Directory, Bar membership card or Xexec. In these circumstances we always ensure that the information is safe and secure, and that the contracted parties abide by the provisions of applicable data protection laws.

We may contact you by letter, telephone, email or otherwise to acquaint you with a matter of potential benefit and interest to you both personally and professionally as a barrister.

## **Your rights**

### **Marketing communications**

You have the right to ask us not to process your personal data for marketing purposes. We will usually inform you (before collecting your data) if we intend to use your data for such purposes or if we intend to disclose your information to any third party for such purposes. You can exercise your right to prevent such processing in a number of ways including: choosing your initial preferences when registering via Barrister Connect, changing your chosen preferences via Barrister Connect, or by using the unsubscribe link at the bottom of marketing communications you may receive. You can also opt out of our use of your personal information specifically for marketing purposes by informing the Records Office by writing to us at 289-293 High Holborn, London WC1V 7HZ or by emailing [Records@BarCouncil.org.uk](mailto:Records@BarCouncil.org.uk).

Should you choose to opt out of marketing communications you will be foregoing the opportunity to find out about a burgeoning range of opportunities that have been negotiated on behalf of the profession by the Member Services team.

### **Access to your information**

The Act affords you the right of access to the personal information we hold about you and further permits us to charge you a fee of £10 for providing this service. If you wish to exercise this right you should submit a subject access request, together with the fee, to the Bar Council's Data Protection Officer at the address provided above. If it transpires that any information we hold is inaccurate or incorrect you should inform us immediately so that it can be amended.

### **Internet-based transfers**

Given that the internet is a global environment, using the internet to collect and process personal data necessarily involves the transmission of data on an international basis. Therefore, by browsing our Site and communicating electronically with us, you acknowledge and consent to our processing of personal data in this way. We will endeavour at all times to protect all personal information collected through our Site in accordance with applicable data protection laws.

### **Telephone calls**

We may record telephone conversations to offer you additional security, resolve complaints and improve our service standards. Conversations may also be monitored for secretariat staff training purposes.

### **Other websites**

Our Site may contain links to other websites which are outside our control and are not covered by this Privacy Policy. If you access other websites using the links provided, the operators of these websites may collect information from you which will be used by them in accordance with their own privacy policies, which may differ from ours. Therefore, if you use these links to leave our Site and visit websites operated by third parties, we cannot be responsible for the protection and privacy of any information that you provide whilst visiting

those websites. Please check these policies before you submit any personal data to these websites.

### **Changes to this Privacy Policy**

We aim to update our Site regularly, and may change the content at any time. If the need arises, we may suspend access to our Site, or close it indefinitely. Any of the material on our Site may be out of date at any given time, and we are under no obligation to update such material.

### **Review**

This Privacy Policy will be kept under review and if amended notification will be made on the Bar Council and BSB websites and on Barrister Connect.

**Dated: 1 December 2011**

## **BAR COUNCIL**

### **2013 – 14 PCF APPLICATION TO THE LSB**

#### **4.4 DRAFT TREASURER'S LETTER**

##### **2013 - 14 BUDGET AND PRACTISING CERTIFICATE FEE**

###### **Summary**

The Bar Council budget for 2013/14, as approved by the Bar Council at its meeting on Saturday 17 November 2012, mandates an overall 5.7%<sup>1</sup> increase in the size of the cheque to be written by individual practitioners. That increase is the blended result of the three charge lines<sup>2</sup> which, under our governance structures, practitioners are required to cover annually when they each write a cheque to the Bar Council. The 5.7% increase in the quantum of those cheques reflects the net effect of a combination of unavoidable cost increases, and reduced income.

###### **Background**

The Bar Council is acutely aware that the practising Bar faces a number of challenges, most notably for those engaged in publicly funded work. Equally, the Bar cannot respond effectively to these challenges without a central structure which co-ordinates views and acts on behalf of the Bar to lobby for change where necessary and also to maintain the profile of the Bar, nationally and internationally. The Bar Council's budget therefore includes the costs (and income) generated by these representational and policy functions, all of which are contained within the 'Representation & Policy' directorate, led by Mark Hatcher. The publication 'Representing the Bar', which is to be found at [http://www.barcouncil.org.uk/media/167059/representing\\_the\\_bar\\_2011\\_\\_2012.pdf](http://www.barcouncil.org.uk/media/167059/representing_the_bar_2011__2012.pdf), outlines the full range of activity undertaken both by Bar Council committees as well as the Representation & Policy staff on the profession's behalf.

Separately, rather than be regulated directly by government, the Bar chose in 2005 a path of self-regulation and itself established, in 2006, the Bar Standards Board (BSB), to which the Bar Council has delegated its regulatory functions. Of necessity, as part of the model of delegation set out in the relevant legislation<sup>3</sup>, the BSB has to – and does - operate on an independent, arm's-length basis. The Bar Council's budget therefore includes the costs (and income) generated by this regulatory function, which is contained within the 'BSB' directorate, led by Vanessa Davies. The BSB's Business Plans and Annual Reports, which

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<sup>1</sup> The range is between 5.3% and 7.4%, see table below.

<sup>2</sup> See page 2 below

<sup>3</sup> Legal Services Act 2007

comprehensively detail regulatory plans and activity, are to be found at [https://www.barstandardsboard.org.uk/media/1430542/bsb\\_annual\\_report\\_2011-12\\_.pdf](https://www.barstandardsboard.org.uk/media/1430542/bsb_annual_report_2011-12_.pdf) and [https://www.barstandardsboard.org.uk/media/1430542/bsb\\_annual\\_report\\_2011-12\\_.pdf](https://www.barstandardsboard.org.uk/media/1430542/bsb_annual_report_2011-12_.pdf).

Finally, those two directorates are supported by a Central Services directorate, which is responsible for the wider resourcing, servicing and support of the other two directorates, and the costs of the premises occupied by the Bar Council as a whole. This directorate, 'Central Services' is led by Oliver Delany.

Across the Bar Council as a whole is a Chairman's office, which covers the cost of the Chairman and the Chief Executive (that post is currently vacant, but a recruitment process is under way and it is envisaged the post will be filled by late Spring 2013).

### **Payments made by the Practising Bar to the Bar Council**

Each year, practitioners (the c 12,400 in self-employed practice, and the c 2,600 in employed practice) make an individual payment to the Bar Council, comprising three elements:-

Core Practising Certificate Fee PCF	This is the practising Bar's contribution to the funding of the Bar Council, and its three directorates (Representation and Policy; BSB; and Central Services). The amount payable by any individual practitioner is a function of two criteria: (i) whether the individual is in employed or self-employed practice, and (ii) the length of time since call to the Bar.
LSB/OLC levy	This is the amount levied on the Bar by the Legal Services Board (LSB) to cover the costs of the Board, and of its Office for Legal Complaints (OLC).
Pensions levy	This is the amount required to cover the relevant year's contribution to the Defined Benefit Pension Scheme. It is allocated to individual practitioners by reference to length of call (with a cap at 39 years)

### **The proposed Budget, 2013-14**

The key features of this Budget are as follows:

- The Budget covers the twelve month period 1 April 2013 to 31 March 2014.
- The total income of the Bar Council (excluding Core PCF) is budgeted to increase by £470k. However, while there are increases in directly attributable income from both Representation and Policy (£326k) and the BSB (£523K), these are offset by a partial



withdrawal of the Inns' subventions of £382k. Total costs of the Bar Council are, however, budgeted to increase by £918k, some 7%;

- It will be immediately apparent that, in absolute terms, costs are increasing by more than income, albeit that the rate of increase of income is higher than that of operating costs. This gap is exacerbated by the fact that a number of initiatives were approved in year by the Finance Committee (for example, the "BARCO" initiative, and certain regulatory spend) which were funded from reserves. Those initiatives are therefore now part of the cost base of the Bar Council, and we do not propose to fund them from reserves this year as (a) they are now part of the Bar Council's 'business as usual' activities, and (b) the Bar Council's reserves need to be maintained at their present level (sufficient to cover three months operating expenditure of the Bar Council).
- The overall budget for the Bar Council is therefore as follows:-

	£'000
Income	14,450 (up 10.3% on prior year £13,100k)
Expenditure	14,450 (up 6.8% on prior year £13,532k, but note that prior year was funded as to £432k from reserves – hence the higher step-up in income required for 2013-14 as these activities become 'business as usual')
<b>Balance</b>	<hr style="width: 10%; margin: 0 auto;"/> 0

- Having eaten significantly into reserves last year (c£430k), the Finance Committee has decided that this year there needs to be a balanced budget. However, this has to be achieved in a way that ensures that the financial pressure is allocated appropriately. This has involved some difficult decisions within a rigorous budgeting process. The needs of the Bar Council have been balanced against the financial position of the practising Bar, and the pressures under which many publicly funded practitioners are operating.

A Summarised Income & Expenditure Account can be found in Annex 1: [ *Not included here.* ]

### Proposed payments to be made by the Practising Bar to the Bar Council

As indicated above, the Bar Council has attempted to balance the financial interests of practitioners against the need to ensure that the Bar remains in control of its representational and regulatory agendas through an effective and properly functioning Bar Council. The Bar Council has therefore approved the budget on the basis that the annual increase in the overall<sup>4</sup> amount paid by each practitioner will remain at a manageable level. The increase is c 5.7% overall, and shown in the table below are specific cases of example practitioner types, with a column showing the additional amount per week that this represents.

Core PCF plus LSB levy, plus pension levy					
	2012/13	2013/14	Percentage	Increased	
	RATE	RATE	increase,	amount	
			YoY	per week	
<b><u>Self-Employed</u></b>					
QC, 20 years call	1,238	1,304	5.3%	£	1.27
Junior, 15 years call	841	887	5.5%	£	0.88
Junior, 10 years call	434	461	6.2%	£	0.52
Junior, 6 years call	232	247	6.5%	£	0.29
Junior, 4 years call	88	95	7.4%	£	0.13
Junior, 2 years call	84	89	5.4%	£	0.09
<b><u>Employed</u></b>					
QC, 20 years call	930	979	5.3%	£	0.94
15 years call	652	689	5.6%	£	0.70
10 years call	362	384	6.1%	£	0.43
6 years call	196	209	6.4%	£	0.24
4 years call	88	95	7.4%	£	0.13
2 years call	84	89	5.4%	£	0.09

**Table 1 – Increase in amounts paid, example practitioners**

As indicated, the increases comprise three elements: core PCF (which is moving up on average by c10%); the LSB/LOC levy (which is moving down by c70%, having collected a greater amount in previous years than, in the event, was demanded by the supervisory regulator); and the pensions' levy (which is moving up by c 17%). The blended weighted impact is of an overall cost increase of c 5.7%.

<sup>4</sup> The overall amount comprises the three elements shown in the table on page 2, being the Core PCF, the LSB/OLC levy, and the pensions levy.

So far as the Core Fee is concerned, the individual cost drivers of this, and of the overall Bar Council budget, are set out in the chart below. The red blocks indicate negative items – so where cost is budgeted to increase or income to reduce; and the green blocks indicate positive items – so where cost is budgeted to reduce, or income to increase. I hope that this provides a useful overview of the changes driving the movement in the Core Fee.

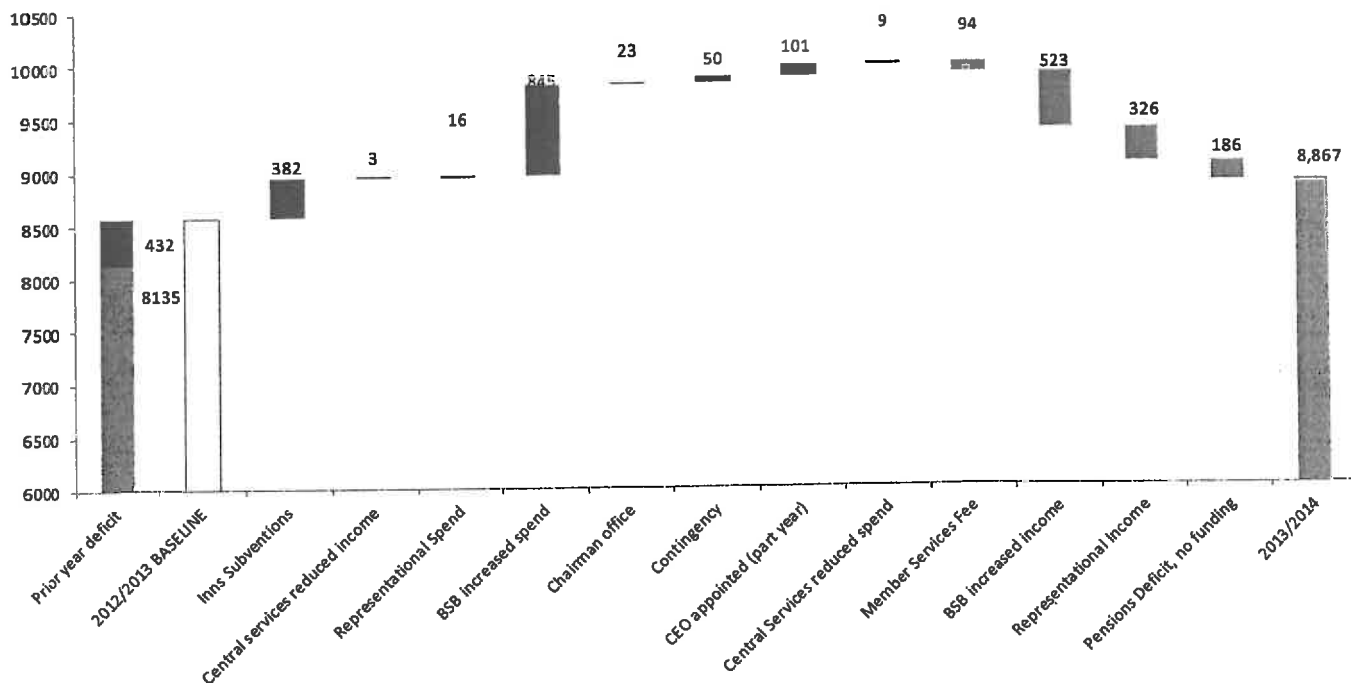


Chart 1- Changes in Core Practising Certificate Fee, 2013-14 budget over 2012-13 projection

It will be helpful if I point out that, whilst the Core PCF in 2012-13 raised £8,075k, the baseline for the year needs to be increased to reflect that fact that £432k of in-year costs were covered by reserves, which next year need to be funded from overall income (and will therefore represent an additional pressure on the Core PCF). The 2012-13 baseline has therefore been raised to reflect this (see the two left hand columns in the chart).

### Equalities Impact Assessment

In determining the budget and the means of allocation the Bar Council identified the following equalities issues:

- Maintaining the extant banding arrangements, based upon year of Call, benefits, in general, the younger members at the expense of older members of the practising profession.
- Additionally, a banding arrangement based upon year of Call disadvantages those, predominantly women, who take career breaks for whatever reason.
- Any increase in the PCF exacerbates the financial challenges faced by those less well remunerated members of the practising profession, amongst whom women and BME are disproportionately represented. The increase in the PCF might impact adversely on the diversity of the profession.

The mitigation of the above is the maintenance of the current well-established system of waiver based upon income, for which the threshold is an annual income from practise of £40k for the self-employed Bar and £30k for the employed Bar.

Looking to the future, the Finance Committee initiated a consultation on the options for the allocation of the PCF in 2014/15, which included an income based fee. The results are currently being evaluated and any consequent change to the PCF will be subject to further consultation and equalities impact assessment during 2013.

Stephen Collier

Treasurer

Insert Date

## BAR COUNCIL

### 2013 - 14 PCF APPLICATION TO THE LSB

#### 5.1 – REGULATORY AND DIVERSITY IMPACT ASSESSMENTS

2013budgetimpactlsb

##### **Regulatory impact**

The BSB strategic and business plans funded by the proposed Budget and PCFs are prepared, so that activities to be undertaken are always aligned with one or more of the regulatory objectives. This is fundamental to the planning process. Many activities underpin more than one objective, as is the case in the LSB's own business plans.

The work of the Bar Council which is not of a regulatory nature is nonetheless designed to support the regulatory objectives set out in s.1 (1) of the LSA 2007. The activities which flow from this work are weighted towards the promotion of the rule of law at home and abroad; improving access to justice for all; ensuring the highest standards of professional practice and training in the public interest; expanding public awareness of citizens' legal rights and duties; the protection of human rights and fundamental freedoms; building international relationships and promoting awareness of the values of the maintenance of the rule of law, as well as contributing to reform of the law and participating in the legislative process. [*See also section 2.2 "Non-regulatory activity classified as "permitted purposes"."*]

##### **Diversity impact**

There is no change to the 2013 - 14 PCF collection proposals, in that it will, as has been the case for decades, be based upon year of call across six bands, with those who are of 1-2 years call paying the least and QCs paying the most. The Bar has a strong tradition of more senior practitioners subsidising those who are seeking to establish themselves in their careers. While it is acknowledged that using year of call as a proxy for income is not wholly accurate, the Bar Council does not otherwise have individual income figures for the profession and has established, through consultation, there is limited willingness to provide such information voluntarily.

Consequently, the Bar Council operates a fee waiver scheme that entitles practitioners whose gross earnings during the previous year have been less than £40k (self-employed) or £30k (employed) to pay a lesser fee (usually that which applies to the banding below that which would normally pertain to the individual's year of call).

Approximately 1,300 practitioners took advantage of this facility in 2012, of whom a higher preponderance, as compared to their overall numbers in the practising Bar, were women and BME. We anticipate that a consequence of the cuts in Legal Aid for the publicly-funded

Bar may mean an increase in those applying for a waiver and, as far as possible, this has been factored into our income calculations.

The proposed increase in the PCF has been applied as evenly as possible across all bandings, so there is no disproportionate impact upon any particular group.

## BAR COUNCIL

### 2013 - 14 PCF APPLICATION TO THE LSB

#### 6.1 - CONSULTATION WITH NON-COMMERCIAL BODIES

2013budgetnoncommercialsb

The Bar Council makes frequent use of both e-mail and the website to communicate with individual barristers, sets of chambers, the Circuits and employers and all other stakeholders. Our policy is to be both up-to-the-minute and relevant, while at the same time being cost-effective and proportionate.

As part of the PCF consultation exercise using its website, the Bar Council invited all practitioners, whether employed or self-employed, to comment on its proposals for 2013 – 14. The results of that consultation can be found at section 1.6. The number of responses was very low and none at all were received from charitable bodies, perhaps, not surprisingly as the number of barristers working in this sector barely reaches double figures.

Reduced fees are payable by all those earning relatively low incomes – see section 4.3 “Schedule of PCF Policy and Guidance” for more details. It will be noted that any individual who is working exclusively for a charity is entitled to pay no more than the full rate for the core fee that is applicable to those in the 5 – 7 years from Call band.