



**TREASURER
ANDREW MITCHELL QC**

Chris Kenny
Chief Executive
Legal Services Board
7th Floor,
Victoria House,
Southampton Row,
London WC1B 4AD

21 December 2011

Dear Chris,

Bar Council 2012/13 Practising Certificate Fees ("PCF") - Application for approval by the Legal Services Board

Please find attached the application made by the Bar Council for the Legal Services Board's approval of PCF levels for 2012/13, as required by s.51 of the Legal Services Act 2007. As Treasurer of the Bar Council, I, together with the Chairs of the Bar Council and the Bar Standards Board ("BSB"), am content that this application has been prepared in a manner that is consistent with the regulatory independence of the BSB.

If your team have any queries about the application or require further information, they should contact Brian Buck, our Chief Accountant, in the first instance. We understand that there will be a turn-round of up to four weeks on this application, so we are therefore expecting that we should have your clearance on this, all things being equal, by the last week of January 2012. Our aim is to despatch the individual PCF payment requests to the profession by mid-February 2012, in order to meet the 1 April 2012 due date.

You may be aware that I will be stepping down as the Treasurer of the Bar Council, with effect from 31 December. The four years I have been in office have been formative in defining the Bar Council's relationship with the BSB and I take pleasure in being credited with a singular role in preserving the independence of the BSB. I have also enjoyed the constructive working relationship that I have had with the LSB.

THE BAR COUNCIL
www.barcouncil.org.uk

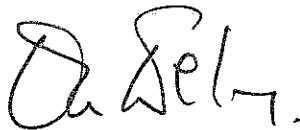
My successor will be Stephen Collier, who is the Group Chief Executive, General Healthcare Group. Stephen will be taking the proposal to split the Finance & Audit Committee to the Bar Council for approval of the required amendment to Bar Council Standing Orders. Under the new arrangements, he will chair the Finance Committee. In that same capacity, Stephen will oversee such amendments to our Finance Manual, as will be necessary to safeguard the regulatory independence of the BSB.

I am sure there will be an early opportunity for you to get to know Stephen and that you and your colleagues will have a positive working relationship with him.

We look forward to receiving your approval of our application in due course.

Finally, I take this opportunity to extend to you and all of your colleagues at the LSB my every good wish for Christmas and the New Year.

Yours sincerely,



Andrew Mitchell QC
Treasurer

BAR COUNCIL

2012/13 PCF APPLICATION TO THE LSB

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2012/13 PCF APPLICATION TO THE LSB

1.1 - 2012/13 PCF PROPOSALS REQUIRING LSB APPROVAL

SUMMARY

2012budgetpcfproposalslsb

Self-Employed Bar (covers 12 month period 1 April 2012 – 31 March 2013)

Banding	Core Fee	Entity Regulation	OLC/LeO Levy	Pensions Levy
	£	£	£	£
QC	1,007	51	140	£2 per year of Call (max. £76)
13 Years Call/ over	681	35	95	£2 per year of Call (max. £76)
8 – 12 Years Call	349	18	47	£2 per year of Call
5 – 7 Years Call	186	9	25	£2 per year of Call
3 – 4 Years Call	67	3	10	£2 per year of Call
1 – 2 Years Call	67	3	10	£2 per year of Call

Employed Bar (covers 12 month period 1 April 2012 - 31 March 2013)

Banding	Core Fee	Entity Regulation	OLC/LeO Levy	Pensions Levy
	£	£	£	£
QC	714	36	140	£2 per year of Call (max. £76)
13 Years Call/ over	501	26	95	£2 per year of Call (max. £76)
8 – 12 Years Call	281	14	47	£2 per year of Call
5 – 7 Years Call	151	8	25	£2 per year of Call
3 – 4 Years Call	67	3	10	£2 per year of Call
1 – 2 Years Call	67	3	10	£2 per year of Call

Note:

The "core" PCF represents a 3% increase on the corresponding figure for the previous period, having first reduced that for the fifteen months charge on the self-employed Bar to a notional twelve month equivalent.

The charge for Entity Regulation will be collected as part of the core fee and is only being shown separately here for information.

BAR COUNCIL

2012/13 PCF APPLICATION TO THE LSB

1.2 - 2011/12 PCF RATES COMPARATOR

SUMMARY

2012budgetpcf2011comparisonlsb

Self-Employed Bar (covers 15 month period 1 January 2011 – 31 March 2012)

Banding	Core Fee	Entity Regulation	OLC/LeO Levy	Pensions Levy
	£	£	£	£
QC	1,222	-	201	£12 per year of Call
13 Years Call/ over	826	-	136	£12 per year of Call
8 – 12 Years Call	423	-	69	£12 per year of Call
5 – 7 Years Call	226	-	37	£12 per year of Call
3 – 4 Years Call	81	-	13	£12 per year of Call
1 – 2 Years Call	81	-	13	£12 per year of Call

Employed Bar (covers 12 month period 1 April 2011 – 31 March 2012)

Banding	Core Fee	Entity Regulation	OLC/LeO Levy	Pensions Levy
	£	£	£	£
QC	693	-	114	£9 per year of Call
13 Years Call/ over	486	-	80	£9 per year of Call
8 – 12 Years Call	273	-	45	£9 per year of Call
5 – 7 Years Call	147	-	24	£9 per year of Call
3 – 4 Years Call	65	-	11	£9 per year of Call
1 – 2 Years Call	65	-	11	£9 per year of Call

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2012/13 PCF APPLICATION TO THE LSB

1.3 - CALCULATION OF 2012/13 PCF REVENUE

2012budgetpcfrateslsb2201220 15/12	PCF: 2011/12 Nos.	PCF: Core Rate	PCF: Notional Rate	PCF: 2012/13 Rate	PCF: 2012/13 Revenue	PCF: 2012/13 Rate	PCF: 2012/13 Revenue	Levy: 2012/13 Rate	Levy: 2012/13 Revenue
	by band	(15 mths)	(12 mths)	(12 mths)	(12 mths)	Note 2	Note 2		
Rate Change:				+3.0%	+3.0%				
Self-Employed		£	£	£	£	£	£	£	£
QC	1,494	1222	978	1,007	1,504,458	51	76,194	140	209,160
Over 13 years call	6,250	826	661	681	4,256,250	35	218,750	95	593,750
8-12 years call	2,254	423	338	349	786,646	18	40,572	47	105,938
5-7 years call	1,322	226	181	186	245,892	9	11,898	25	33,050
3-4 years call	786	81	65	67	52,662	3	2,358	10	7,860
0-2 years call	328	81	65	67	21,976	3	984	10	3,280
		2011/12	2011/12						
		(12 mths)	(12 mths)						
Rate Change:				+3.0%	+3.0%				
Employed		£	£	£	£	£	£	£	£
QC	19	693	693	714	13,566	36	684	140	2,660
Over 13 years call	1,958	486	486	501	980,958	26	50,908	95	186,010
8-12 years call	550	273	273	281	154,550	14	7,700	47	25,850
5-7 years call	239	147	147	151	36,089	8	1,912	25	5,975
3-4 years call	99	65	65	67	6,633	3	297	10	990
0-2 years call	33	65	65	67	2,211	3	99	10	330

Total no. (Note 1)	15,332				8,061,891		412,356		1,174,853
		Allow for waivers e			-564,332		-28,865		-82,240
		Estimated receipts			7,508,059		383,491		1,092,613
					=====		=====		=====
		Budget Target			7,528,400		376,000		1,096,600
					=====		=====		=====
		Over/(under)			-20,341		7,491		-3,987
					=====		=====		=====

Notes:

1. This figure represents the number of practising barristers as at 01/12/2011. We recognise that it will change by the PCF payment due date of 01/04/2011. The forecast is a decline in numbers due to cuts in publicly funded work. We have made due allowance for the impact of this in our Budget calculations.

2. This amount is collected as part of the core fee.

BAR COUNCIL

2012/13 PCF APPLICATION TO THE LSB

1.4 - PROCESS FOR BUDGET SETTING

2012budgetpreparationlsb20122011

[The process for setting the Bar Council's Budget is in accordance with the following extract from the Finance Manual, v. April 2011. This process is currently under review and is likely to be subject to further amendment. Additional to the process described below, the Bar Council places the Budget and associated PCF proposals on the website and invites comment from the profession – see also "Consultation process and the response".]

It is the Accounting Officer's responsibility to ensure that an annual budget is drawn up for each financial year, which is from 1 April to 31 March. The Accounting Officer is the Chief Executive or his nominated substitute. 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 are prepared and agreed ahead of each financial year.

The Budget will be prepared by the Chief Accountant in consultation with the Chief Executive, Directors and other budget holders who will consult as necessary with the BSB and committee chairmen. All staff will co-operate fully in the timely completion of budget bidding forms and in providing the Chief Accountant with all financial, statistical and other relevant information necessary for the preparation of budgets, estimates and forecasts. The first draft will be prepared in July and will form the basis of screening meetings to be conducted variously by the Chief Executive, respective Directors and the Chief Accountant.

The BSB will consider and provisionally agree those parts of the budget which relate to its areas of responsibility. The BSB will declare that its resources bid will be adequate to ensure delivery of its regulatory objectives and plans for the coming year.

The Chief Executive will consult the Under/Sub-Treasurers of the Inns of Court during the preparation of the Budget. A provisional estimate will be provided in early July of the subventions for charitable activities likely to be sought for the forthcoming budget year.

By early September the draft Budget will be forwarded to the Finance and Audit Committee for comment. The Finance and Audit Committee 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 Finance and Audit Committee will finalise the proposed Budget prior to submitting it for approval by the Bar Council by the September/October meeting, when Practising Certificate Fees (PCF) and the Members Services Fee (MSF) for the forthcoming calendar year will also be agreed, subject to the ratification of the LSB.

The Treasurer, on behalf of the Bar Council, will at the same time follow any process agreed with the LSB, in order to obtain the latter's approval of the following year's proposed PCF levels.

Budgetary Control

The Chief Executive, as Accounting Officer, is to exercise overall budgetary control on behalf of the Treasurer. 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.

The Chief Executive and Directors are to render outcome based quarterly reports to the Finance and Audit Committee on the performance of their budgets. The impact of any significant (+/- 5%) underspend/overspend upon the fulfilment of the objectives of the plan that the respective budgets relate to must be reported in full.

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 Officer, the BSB, committee chairman, Council member or official of the Bar Council has any authority to exceed the approved budget.

Requests for Additional Expenditure

Any requests for additional expenditure must conform with regulatory and representational business plans. Written requirements for additional Secretariat staff are to be put to the Finance and Audit Committee by the relevant Director, through the Chief Executive, following exploration of the scope for any offsetting savings in staff resources. If time is of the essence, a mechanism exists whereby any reasonable need can be resourced – see below.

Officers, Board and committee chairmen, members or officials requiring authorisation for additional expenditure are to submit their applications to the Finance and Audit Committee or the Treasurer, as detailed below. In every case an effort must be made to identify compensating savings. Requests for additional expenditure will be considered as follows:

- a. Up to £7,500 (seven thousand five hundred pounds)

Power of approval delegated by the Finance and Audit Committee to the Treasurer, with appeal against refusal to the Finance and Audit Committee. All approvals are to be reported to the next Finance and Audit Committee meeting.

- b. Over £7,500 (seven thousand five hundred pounds)

To be considered for approval by the Finance and Audit Committee.

- c. Over £7,500 (seven thousand five hundred pounds) but in emergency only.

Power of approval delegated by the Finance and Audit Committee to the Treasurer, who shall make such informal consultation, if any, with members as he deems appropriate, with report of approvals at the next Finance and Audit Committee 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 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, regulatory and representational budget groupings and secondly against the overall Bar Council budget performance. It may be that an underspend in one area may be required as an offset elsewhere in order to avoid an overall overspend.

Consequently, any virement proposal must be approved by the Finance and Audit Committee. 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 Finance Committee must 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

Budgeting is not an exact science and both over and under spends are to some degree inevitable. However, all significant variations (+/- 10% or £5k whichever is the lesser figure) require explanation and overspends are to be avoided. Quarterly reports on budget performance are to be rendered, by the Chief Executive and Directors, to the Finance & Audit Committee, via the Management Accounts. In addition, reports on BSB performance are provided regularly to its Performance & Best Value Committee. 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. Offsets are to be identified for overspends unless otherwise authorised by the Finance & Audit Committee.

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.

BAR COUNCIL

2012/13 PCF APPLICATION TO THE LSB

1.5 - 2012/13 BUDGET COMPILATION TIMELINE

2012budgettimelinelsb20122011

Date	Consolidated Budget	BSB Budget
27/07/11		PBVC meeting to consider draft Business Plan
02/08/11	FAC Meeting considers preliminary casting of Budget. Decision made that 2012/13 bids should be contained, wherever possible, at the (adjusted) 2011/12 level.	
08/09/11		BSB considers its overall Business Plan and Budget bid.
03/10/11		BSB considers 3 different business scenarios, each with differing cost implications. It concludes that the costs of regulation must be contained.
10/10/11	Draft Budget discloses deficit of £200k. Overall BSB expenditure = "steady state" year on year. Therefore, comprehensive review of Rep. & Policy expenses leads to further cuts. Central Services sees significant increase in accommodation costs, due to BSB demand for additional staff. Also, need for IT support staff increase, following major investment in core database in 2011.	
25/10/11	FAC Meeting considers draft Budget. Modelling indicates no rise in the rate of MSF. However, expenditure on permitted purposes indicates PCF needs to rise by 5-6%. Equalization of rates for both employed & self-employed Bar is mooted, as is also increasing PCF paid by practitioners in Year 5-7 years of Call banding. Subsequent soundings with GMC and the Employed Bar mean the "equalisation" option is not pursued. Reluctant decision made that a third	

	year of pension levy required, further to mitigate risks including that associated with low take-up of revised pension scheme.	
12/11/11	Bar Council considers draft Budget. Delegates authority to FAC to publicise Budget proposals on website and consequently finalise the Budget and set PCF.	
17/11/11	Consultation with the profession, proposing outline Budget and 5% across the board increase in PCF rates, begins.	
29/11/11	FAC Meeting – progress report on consultation. About 60 responses received so far. Majority object to rate of PCF increase and/or back expenditure cuts.	
12/12/11	Consultation closes. A total of c. 70 individual responses plus Circuit, SBA and employer responses. Majority view is that the Bar Council should consider plight of publicly-funded Bar. FAC meeting to consider responses. Decision made to reduce rate increase from 5% to 3%. Cost cuts made to compensate.	
23/12/11	PCF proposals submitted to LSB	

BAR COUNCIL**2012/13 PCF APPLICATION TO THE LSB****1.6 - 2012/13 BUDGET INCOME & EXPENDITURE ACCOUNT**

2012budgetinc&explsb20122011bb 15/12	Note	2012/13 12 Mth Budget £000	2011/12 15 Mth Forecast £000
INCOME			
From PCF:			
PCF - "Core" activities		7,508.1	9,258.2
PCF - Entity Regulation = Directly Attributable	1	376.0	
		7,884.1	9,258.2
Total PCF exc. Levies (see below)			
Non-PCF Income:			
Directly attributable:			
Regulation: BSB	2	1,322.7	1,500.0
Representation	3	1,075.4	947.0
Inns Subventions		1,381.7	1,628.9
Not Directly attributable:			
Other Income		151.2	150.0
Member Services Fee (MSF)	4	1,135.1	1,683.5
		12,950.2	15,167.6
TOTAL: INCOME			
EXPENDITURE			
Corporate:			
Chairman/Corp. Activities/Donations		742.5	1,005.0
Chief Executive	5	171.2	202.7
		913.7	1,207.7
Representation & Policy:			
Director/Team Admin.		262.1	333.3
Professional Affairs		444.1	535.0
Remuneration		411.2	577.0
International		319.1	390.0
Europe		116.0	150.0
Communications	6	344.1	300.0
Member Services: Events/conf.	7	476.7	300.0
Other		434.5	449.1
		2,807.8	3,034.4

BAR COUNCIL**2012/13 PCF APPLICATION TO THE LSB****1.6 - 2012/13 BUDGET INCOME & EXPENDITURE ACCOUNT**

2012budgetinc&explsb20122011bb 15/12	Note	2012/13 12 Mth Budget £000	2011/12 15 Mth Forecast £000
EXPENDITURE (Continued)			
Regulation - Bar Standards Board:			
Chair/Director/Board	8	442.0	528.0
Strategy		337.5	422.0
Professional Conduct		1,163.5	1,368.9
Education Standards		736.8	825.0
Qualification Regulations		348.1	436.0
Professional Practice: Standards		414.7	267.9
Entity Reg.		115.9	224.0
Quality: QA		197.9	218.0
QASA	9	308.2	100.0
		<hr/>	<hr/>
		4,064.6	4,389.8
		<hr/>	<hr/>
Central Services:			
Director/Prof. Fees		176.4	244.3
Records		159.5	248.0
Finance/FAC/Trusts		518.5	752.1
HR		115.3	165.0
Office Services		296.6	417.2
IT	10	184.9	185.8
Diversity		261.7	303.0
Research		280.9	352.4
Project Support		106.9	143.2
		<hr/>	<hr/>
		2,100.7	2,811.0
Printing & duplicating		242.0	225.0
Office accommodation	11	2,154.8	2,615.3
IT Support: Non-staff		249.6	296.0
		<hr/>	<hr/>
		4,747.1	5,947.3
		<hr/>	<hr/>
Provisions:			
General contingency		80.0	
Staff Costs + Pension deficit removal		347.3	751.7
Premises inc. Relocation of FRU		10.0	101.5
		<hr/>	<hr/>
		437.3	853.2
		<hr/>	<hr/>
TOTAL: EXPENDITURE		12,970.5	15,432.4
		<hr/>	<hr/>
OPERATING RESULT		-20.3	-264.8
		<hr/>	<hr/>

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2012/13 PCF APPLICATION TO THE LSB

1.6 - 2012/13 BUDGET INCOME & EXPENDITURE ACCOUNT

2012budgetinc&explsb20122011bb 15/12	Note	2012/13 12 Mth Budget	2011/12 15 Mth Forecast
Fees & Levies:			
PCF - "Core" activities (as above)		7,508.1	9,258.2
PCF - Entity Regulation (as above)		376.0	
Levies (ring-fenced):			
LSB/LeO Costs		1,096.6	1,471.2
Pension Scheme deficit removal		400.0	3,000.0
		-----	-----
PCF Total: "Core" + Levies		9,380.7	13,729.4
Member Services Fee (MSF) (as above)		1,135.1	1,683.5
		-----	-----
Total Fee/Levy Income from the Bar		10,515.8	15,412.9
		-----	-----
Note:			
LSB/LeO Costs			
To be collected/collected		1,096.6	1,471.2
To be disbursed/dispursed		-1,113.4	-1,038.8
		-----	-----
		-16.8	432.4
Deferred b/f		616.8	184.4
		-----	-----
Deferred c/f		600.0	616.8
		-----	-----

BAR COUNCIL

2012/13 PCF APPLICATION TO THE LSB

1.7 – 2012/13 INCOME & EXPENDITURE ACCOUNT: NOTES

2012budgetinc&expnotelsb20122011

General: The change of accounting reference date from 31 December to 31 March, announced at the time of setting the 2011/12 Budget, means comparing the out-turn of an accounting period of fifteen months duration with a target for one of twelve months duration. Direct comparison is therefore hampered by this changeover. Nevertheless, certain features of the new Budget should be highlighted, as follows:

Note	Caption	Commentary
<u>Income</u>		
1.	PCF: Entity Regulation	Budgeted income to recoup start-up costs incurred in 2011/12 & 2012/13. Once established, ongoing running costs will only be borne by those alternative business structures that elect to be regulated by the Bar Standards Board.
2.	Directly Attributable Income: Regulation	A decline in income from the accreditation of third party courses will be offset by receipts from the new Quality Assurance Scheme for Advocates ("QASA").
3.	Directly Attributable Income: Representation	Income will increase from hosting the World Bar Conference in July 2012 and growth in the provision of training courses, such as Direct Access.
4.	Member Services Fee	Rates are being maintained at the equivalent level as for 2010.
<u>Expenditure</u>		
5.	Expenditure: Corporate Chief Executive	The position of Chief Executive has been vacant since June 2011. It has been assumed that this post will not be filled, if at all, until October 2012.
6.	Expenditure: Representation & Policy Communications	It is proposed to recruit a Manager, so as to meet the strategic priorities of the Bar Council office-holders.
7.	Member Services: Events	Increase to reflect the greater level of activity – see Note above on Income.
8.	Expenditure: Regulation Chair/Director/Board	There is a decrease to reflect the non-replacement of a staff leaver.
9.	Quality: QASA	See Note 2 above.

Expenditure:

Central Services:

10.

IT

Includes the recruitment of an additional IT Support person, consequent on the major systems upgrades implemented in 2011 and the expansion in staff numbers.

11.

Office accommodation

The increase in overall staff numbers has led to the demand for additional floor space. The Free Representation Unit will vacate a shared floor, so as to satisfy this need. The associated rent and service charge costs now fall to the Council. Additionally, as an inducement to terminate their lease, assistance has been provided in 2011 to facilitate the FRU move to alternative premises.

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2012/13 PCF APPLICATION TO THE LSB

1.8 - 2012/13 BUDGET CONSULTATION PROCESS AND THE RESPONSE

2012budgetconsultationprocesslsb

Following consideration at the Finance & Audit Committee ("FAC") meeting held on 25 October 2011, draft 2012/13 Budget proposals were then considered for endorsement at a meeting of the Bar Council on 12 November 2011. The headline feature of this draft was the proposal to increase the "core" PCF by 5% across each individual banding/category. This would result in a break-even Income & Expenditure Account.

In accordance with a procedure already agreed with the LSB, a summary of information about the Budget, together with the specific PCF proposals were thereafter displayed on the Bar Council website (copy attached). An invitation was then issued to the profession, as individuals or as employer, SBA or Circuit representatives to comment on the proposals.

The deadline for submissions was 3.00 p.m. on Monday 12 December 2011. At an FAC meeting held later in the day, the committee considered an analysis of the responses, with the view of determining whether and in what respects the Budget might be amended.

Some 75 responses were received from individuals, together with collective submissions from the Bar Association for Commerce, Finance & Industry ("BACFI"), the Chancery Bar Association, the Commercial Bar Association, the South Eastern Circuit, the Western Circuit and the Government Legal Service. A number of these collective submissions were studied at the meeting.

The vast majority of respondents decried the suggested 5% increase in the PCF and, of these, the majority put forward the view that expenditure should be cut at the same time. Generic suggestions as to where the axe might fall included: reducing the scope of both regulatory and representative activities undertaken, making some Secretariat staff redundant and deferring/abandoning the appointment of a new Chief Executive. Some respondents suggested relocating some or all of the staff away from the existing accommodation in Central London. A third year of pensions levy in respect of the Bar Council staff pension scheme was also unwelcome, even though it was put at a substantially reduced level from that of the last two years. Few suggestions were specifically focussed to be helpful and equally few recognised the inherent tension between the profession's increasing expectations of the Bar Council and the consequent need for additional resource.

While the FAC understood the plight of many publicly-funded practitioners, it was considered that to ignore the fact that inflation was running at 4+% would only be storing up trouble for the future. Accordingly, the committee compromised on a 3% increase, but to be

accompanied by a number of expenditure cuts, so as to compensate for the lower level of PCF revenue now expected.

Some respondents drew attention to what they regarded as inequitable features of the present basis of allocating the PCF – namely the disparity between the fee paid by the most junior and the most senior members of the profession, the fact that the Employed Bar pays about 70% of the PCF paid by the Self-employed Bar and the use of year of call as a proxy for income level.

The FAC noted these comments, while observing that the responses to the direct consultation with every member of the profession in 2010, followed by the qualitative research undertaken in 2011 (the results of which were placed on the Bar Council website), indicated that there was little overall appetite for changing the fee-raising methodology. However, in deciding not to change the latter, the FAC were mindful that there were anomalies and this is why, at its October meeting, it had re-affirmed the continuation of the fee waiver arrangements, which were based on low income.

The Chairman-elect also confirmed that the PCF collection arrangements will again be subject to review and consultation with the profession during 2012.

BAR COUNCIL

2012/13 PCF APPLICATION TO THE LSB

1.9 – CONSULTATION MATERIAL POSTED ON THE BAR COUNCIL WEBSITE

2012budgetconsultationhardcopylsb

The consultation opened on 17 November 2011 and closed on 12 December 2011.

THE BAR COUNCIL

2012/13 BUDGET PROPOSALS: CONSULTATION WITH THE PROFESSION

At a meeting held on Saturday 12 November 2012, the Treasurer invited the Bar Council to consider and endorse the income & expenditure proposals for 2012/13, and the associated ramifications for the Practising Certificate Fee (PCF), as detailed below.

The key features of this Budget are as follows:

- The Budget covers the period 1 April 2012 to 31 March 2013. (The previous Budget covered the fifteen months period 1 January 2011 to 31 March 2012, consequent upon the decision to move the PCF due date from 1 January to 1 April.)
- The income targets are (2011/12 figures in brackets, adjusted for an equivalent twelve month period):

PCF – “Core” activities = £7.6M (£7.4M)

PCF – Entity Regulation start-up = £0.4M (£ Nil)

PCF – LSB/LeO Levies = £1.1M (£1.5M)

PCF-Pensions Levy = £0.4M (£2.4M)

Total = £9.5M (£11.3M)

MSF = £1.1M (£1.3M)

- The levies aside, which are ring-fenced and can only be applied for the purposes raised, in order to achieve a balanced budget in 2012/13, a £365k gap between income and expenditure has to be bridged. The budgetary challenges have included a decline in regulatory income and the requirement to meet such additional costs as those associated with inflation, VAT, rises in the cost of services and commodities plus the costs of entity-regulation start-up and the additional space requirements. It should be noted that provision has been retained for a new appointment to the post of Chief Executive, should that be required.
- The Finance and Audit Committee (FAC), BSB and GMC have all also scrutinised the budget to ensure an appropriate correlation between the business objectives and resource requirements. The options to close the £365k gap have included consideration of further cuts in activity and associated resources as well as such incoming raising measures as aligning the PCF paid by employed Bar with the self employed Bar, significantly raising the fee paid by practitioners of 3-4 years Call and increasing the PCF across the Board by up to 5 %. The Bar Council opted for the latter.

- The qualitative consultation, with the profession earlier this year, regarding the PCF (the results of which are also to be found on the Bar Council website) indicated there was no significant demand for change. However, that does not preclude addressing the perceived anomalies in the existing PCF bandings. Consequently, the PCF bandings will be reviewed during the course of 2012 and proposals presented to the profession. It is possible that this work will coincide with the BSB refining its views both on entity regulation as well as the associated prospect of levying fees on Chambers.
- The LSB/LeO levies are respectively charged to the Bar Council on a per capita and total number of complaints basis. For the past two years, that cost has been collected from the profession in the same ratio as the PCF bandings, which are based on years of call. It also means that the self employed Bar pay more than the employed Bar. Consideration was given to allocating the levies on a per capita basis which would have resulted in all practitioners paying £77 per head as compared to the current ratio in which a self employed Silk will pay £140 and those of up to 4 years Call who will pay £10. While that wholesale change is not yet to be pursued, there remains the view that the self employed and employed Bar should make the same contribution to the levies. This will have a small impact on the rate paid by the employed Bar. As there is a higher proportion of women and BME in the employed Bar, as compared to the self employed Bar, there is a minor equalities impact. However, the fact that 90% of employed barristers have their fees paid by their employer mitigates the problem. Moreover, while it applies only to the core element of the PCF, the Bar Council is maintaining the fee waiver system, which allows individuals earning less than £40k (self employed) or £30k (employed) to, where appropriate, pay a lower fee than that pertaining to their year of Call.
- It has also been decided to impose a further, albeit much reduced, pension levy. The Annual Actuarial Report as at 1 October 2010 issued by the Scheme actuary calculated that the current deficit on the Scheme is £ 6,077,000 assuming that the Scheme is not wound up. The sum of £5.1M raised by the 2010 and 2011 pension levies is being applied to address this liability. In addition the Bar Council consulted staff on a recast DB scheme that would represent a similar cost, if not risk, to the employer as that offered to staff members of the Defined Contribution Scheme (the Stakeholder Scheme). As a result of this exercise, 36 members of staff have now withdrawn from the scheme with effect from 30 September 2011 and are considering applying to join the Stakeholder Scheme. Only 9 employees remain as active members. Our professional advisors, Bluefin, estimate the consequence as being an increase in past service deficit of £835k.
- 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 £2. Thus the levy will range from zero for newly qualified barristers who have had no benefit from the staff, to £76 for the most experienced barristers who have had the capped maximum

of 38 years' support from staff. It is estimated that this levy will raise approximately £400,000. Another levy may be required in 2013/2014.

- The retention of the status quo with regard to the PCF bandings means that no further equalities impact assessment is required. Such inequalities as do remain are mitigated by the fee waiver arrangements referred to above. Some 1036 self employed and 67 employed practitioners were granted fee waivers in 2011/12.
- No change is proposed to the (twelve month equivalent) MSF rates.

Individuals, chambers, employers, SBAs and Circuits are all requested to take this opportunity to comment on 2012/13 Budget and associated PCF proposals.

The FAC 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:
2012PCFConsultation@BarCouncil.org.uk by no later than 3.00 p.m. on Monday 12 December 2011.

BAR COUNCIL

2012/13 BUDGET

INCOME & EXPENDITURE ACCOUNT

Yr 2010 12 Mth		2011/12 15 Mth	2011/12 15 Mth	2011/12 12 Mth Notional	2012/13 12 Mth	2012/13 12 Mth
Actual £000		Budget £000	Forecast £000	Budget £000	Budget £000	Budget %
6,719.9	INCOME	8,921.2	9,210.1	7,368.1	7,614.1	58.3
	PCF - "Core"				376.0	2.9
	PCF - Entity Regulation			1,407.9	1,149.4	8.8
1,560.7	MSF	1,759.9	1,653.8			
8,280.6	Fees	10,681.1	10,863.9	8,776.0	9,139.5	69.9
1,370.4	Inns Subventions	1,802.2	1,618.6	1,441.8	1,381.7	10.6
	Directly attributable:					
	Representation		474.6	411.6	617.4	4.7
22.8	Training events/Conferences		563.7	498.9	458.0	3.5
375.4	Other	623.6				
1,243.2	Regulation	1,587.0	1,819.0	1,459.9	1,322.7	10.1
128.6	Other: Investment/room-hire etc	149.0	185.3	162.5	151.2	1.2
11,421.0	TOTAL	14,842.9	15,525.1	12,750.7	13,070.5	100.0
	EXPENDITURE					
	Corporate:					
772.9	Chairman/Corp. Activities/Donations	958.9	1,074.5	746.7	742.5	5.7
230.2	Chief Executive	307.4	173.2	245.9	197.2	1.5
1,003.1		1,266.3	1,247.7	992.6	939.7	7.2
	Representation & Policy:					
182.4	Director/Team Admin.	320.6	323.6	256.5	262.1	2.0
438.5	Professional Affairs	653.6	573.2	527.7	444.1	3.4
387.9	Remuneration	630.9	584.1	504.7	411.2	3.1
290.7	International	428.1	421.4	346.3	319.1	2.4
133.8	Europe	173.8	175.5	139.0	79.0	0.6
207.5	Communications	321.1	317.1	256.9	344.1	2.6
17.5	Member Services:	0.0	379.2	329.8	476.7	3.6
283.1	Events/conf.	445.3	460.1	358.7	434.5	3.3
	Other					
1,941.4		2,973.4	3,204.2	2,719.6	2,770.8	21.2
	Regulation-BSB:					
458.9	Chair/Director/Board	662.1	571.1	489.7	442.0	3.4
320.9	Strategy	470.1	439.6	376.1	382.3	2.9
1,076.3	Professional Conduct	1,469.1	1,399.9	1,175.3	1,163.5	8.9
640.3	Education Standards	925.2	860.5	740.2	736.8	5.6
239.4	Qualification Regulations	436.2	409.2	348.9	348.1	2.7
442.1	Professional Practice:	379.0	335.9	246.5	414.7	3.2
	Standards					
	Entity Reg.		260.1	234.9	115.9	0.9
	QA	217.8	216.1	174.2	197.9	1.5
6.2	Quality:	25.0	185.6	148.5	308.2	2.4
3,184.1		4,584.5	4,678.0	3,934.3	4,109.4	31.4

BAR COUNCIL

2012/13 BUDGET

INCOME & EXPENDITURE ACCOUNT

Yr 2010 12 Mth Actual £000	2011/12 15 Mth Budget £000	2011/12 15 Mth Forecast £000	2011/12 12 Mth Notional Budget £000	2012/13 12 Mth Budget £000	2012/13 12 Mth Budget %
EXPENDITURE (Continued)					
	Central Services:				
215.1	247.1	197.7	197.7	176.4	1.3
189.5	229.7	226.2	183.8	159.5	1.2
605.2	719.3	743.7	575.4	518.5	4.0
73.0	174.7	166.7	139.8	115.3	0.9
339.9	417.7	381.0	334.1	296.6	2.3
147.4	186.1	203.2	148.9	184.9	1.4
265.3	370.9	368.5	296.7	261.7	2.0
132.0	352.4	342.1	281.9	280.9	2.1
60.4	143.2	141.3	114.6	106.9	0.8
	2,841.1	2,770.4	2,272.9	2,100.7	16.1
2,027.8					
	294.4	266.5	235.5	242.0	1.9
207.4					
1,719.5	2,247.9	2,615.3	1,895.3	2,154.8	16.5
129.2	208.8	292.3	227.0	249.6	1.9
	5,592.2	5,944.5	4,630.7	4,747.1	36.3
4,083.9					
	Provisions:				
	142.5		250.0	100.0	0.8
640.3	721.3	736.3	577.0	393.5	3.0
-116.3	6.0	101.5		10.0	0.1
78.3					
	869.8	837.8	827.0	503.5	3.9
602.3					
10,814.8	15,286.2	15,912.2	13,104.2	13,070.5	100.0
606.2	-443.3	-387.1	-353.5	0.0	0.0

Proposed 2012/13 PCF – Self Employed Bar

	* Core Fee £	# OLC/LeO Levies £	Pension Levy £
QC	1,026	140	£2 per year of Call (max. £76)
13 Years Call and over	694	95	£2 per year of Call (max. £76)
8 – 12 Years Call	355	47	£2 per year of Call
5 – 7 Years Call	190	25	£2 per year of Call
3 – 4 Years Call	68	10	£2 per year of Call
1 – 2 Years Call	68	10	£2 per year of Call

Proposed 2012/13 PCF – Employed Bar

	* Core Fee £	# OLC/LeO Levies £	Pension Levy £
QC	728	140	£2 per year of Call (max. £76)
13 Years Call and over	510	95	£2 per year of Call (max. £76)
8 – 12 Years Call	287	47	£2 per year of Call
5 – 7 Years Call	154	25	£2 per year of Call
3 – 4 Years Call	68	10	£2 per year of Call
1 – 2 Years Call	68	10	£2 per year of Call

* = Assumes 5% increase

= Assumes that both the Self - Employed and Employed Bar pay the same LSB/LeO Levy

Proposed 2012/13 MSF

	Self- Employed £	Employed £
QC	150	150
13 Years Call and over	100	100
8 – 12 Years Call	100	100
5 – 7 Years Call	100	100
3 – 4 Years Call	100	100
1 – 2 Years Call	50	50

BAR COUNCIL

2012/13 PCF APPLICATION TO THE LSB

2.1 - PROCESS FOR DETERMINING PCF INCOME REQUIREMENT

2012budgetstepspcflsb

Step	
1.	Budgeted expenditure bids by cost centre and Directorate are listed.
2.	Any general provisions, such as training expenses and staff "churn" are allocated back across these cost centres. Allocation is usually on a head-count basis
3.	Premises costs are allocated on a square-footage occupied basis.
4.	Directorate costs are allocated across teams on a headcount basis.
5.	Central Services costs are allocated on a usage/headcount basis, whichever is the most appropriate. Usage is determined following enquiry of individual section managers.
6.	See the schedule "Allocation of Overheads" for the practical expression of this process.
7.	Aggregate figures are then transferred to the first column (Total Expenditure) of the Statement under s.51 LSA 2007 Schedule.
8.	Where certain representative activities have been grouped together under a common management structure, these are then disaggregated.
9.	Expenditure can then be examined to determine how it may be funded, after allowing for the restrictions made in LSA 2007. A strict sequence is then applied as follows:
10.	First offset: Any income that is directly attributable. The Bar Council has some income that applies to regulatory activity as well as representational. In the schedule, there is a budgeted regulatory income of £1.322M and a representative/member services income of £1.075M
11.	Second offset: A special PCF levy (£376k) is proposed to fund the set-up costs incurred in order to facilitate entity regulation These costs have/will be incurred both in 2011/12 & 2012/13.
12.	Third offset: Subvention payments of £1.381M are expected to be received from the Inns of Court. This income can only be applied for charitable purposes. As such, all regulatory activities are regarded as charitable.
13.	Any expenditure not so funded from the income stream offsets above then fall to be financed out of the PCF (if a "permitted purpose", as defined) or other income (if not a permitted purpose).
14.	Any remaining "uncovered" regulatory expenditure can be funded by PCF income. In the schedule, this amounts to £4.005M
15.	Any corporate or "uncovered" representative expenditure can be funded by the PCF only to the extent that, after careful analysis, a case can be made that all or some of it meets one of the "permitted purposes". See accompanying "Allocation of non-regulatory purposes against permitted purposes", which sets out the case for attributing certain non-regulatory expenditure to permitted purposes and therefore fundable by the PCF. On the schedule, this brings the total of permitted purposes expenditure to £7.528M.
16.	Such expenditure as falls outside of the permitted purposes definition must be

financed by any other income. It is estimated that approximately £151k will come from general sources, such as investment, room-hire charges etc and the balance must be found by seeking voluntary subscription income from the profession. This is the Member Services Fee and it has been set at £1.135M. This leaves an overall operating Budget deficit of £20k.

BAR COUNCIL

2012/13 PCF APPLICATION TO THE LSB

2.2 - ALLOCATION OF OVERHEADS, INCLUDING COSTS OF CENTRAL SERVICES

2012budgetexpenditure -allocationlsb 15/12	Budget I. & E. Account £000	Budget Alloc.: Provns. £000	Budget Alloc.: Premises £000	Budget Alloc.: Manage. £000	Budget Alloc.: C.Serv. £000	Budget Total 2012/13 £000
Corporate	913.7	33.8	179.7		387.3	1,514.5
Representation						
Director/Team Admin.	262.1	11.9	40.4	-334.6	20.2	0.0
Professional Affairs	444.1	17.7	86.4	94.1	328.7	971.0
Remuneration	411.2	16.1	69.2	83.6	292.2	872.3
International	319.1	9.1	25.9	41.8	146.1	542.0
Europe	116.0					116.0
Communications	344.1	10.1	36.8	41.8	146.1	578.9
Member Services	911.2	16.3	33.4	73.3	255.6	1,289.8
	2,807.8	81.2	292.1	0.0	1,188.9	4,370.0
Regulation						
Chair/Director/Board	442.0	15.7	24.7	-671.1	188.7	0.0
Strategy	337.5	15.3	48.4	-401.2		0.0
Professional Conduct	1,163.5	52.6	257.7	497.9	950.6	2,922.3
Education Standards	736.8	19.8	71.0	191.5	365.6	1,384.7
Qualification Regulations	348.1	15.2	31.6	172.4	329.1	896.4
Professional Practice	414.7	17.7	71.0	134.1	255.9	893.4
Entity Regulation	115.9					115.9
Quality/QASA	506.1	12.9	131.7	76.4	146.2	873.3
	4,064.6	149.2	636.1	0.0	2,236.1	7,086.0
Central Services						
Director	176.4	6.5	18.4	-211.3	10.0	0.0
Records	159.5	9.0	52.5	32.0	-253.0	0.0
Finance	518.5	10.9	42.1	25.6	-597.1	0.0
HR	115.3	6.6	31.5	19.2	-172.6	0.0
Office Services	2,693.4	13.6	-1,402.0	51.2	-1,356.2	0.0
IT	434.5	9.3	57.2	25.6	-526.6	0.0
Diversity	261.7	12.3	52.5	25.6	-352.1	0.0
Research	280.9	8.8	31.5	19.2	-340.4	0.0
Project Support	106.9	6.1	18.4	12.9	-144.3	0.0
	4,747.1	83.1	-1,097.9	0.0	-3,732.3	0.0
Provisions	437.3	-347.3	-10.0		-80.0	0.0
	12,970.5	0.0	0.0	0.0	0.0	12,970.5
C. Services/Contingency						
Corporate					-387.3	
Representation					-1,188.9	
Regulation					-2,236.1	
					-3,812.3	

BAR COUNCIL

2012/13 PCF APPLICATION TO THE LSB

2.3 - ANALYSIS OF ALLOCATION OF EXPENDITURE AGAINST DIRECTLY ATTRIBUTABLE INCOME, OTHER INCOME, PERMITTED PURPOSES AND NON-PERMITTED PURPOSES

2012budgets.51lsb 15/12	Total Expend. £000	Analysis of Expend. £000	Directly Attrib. Income £000	PCF: Entity Regulation £000	Inns Subs. £000	Permitted Purposes ("P.P.") %	Recoup P.P. via PCF £000	Recoup Non-P.P. via Other £000
Regulation: BSB								
Disciplinary	2,922.3							
Education Standards	1,384.7		-745.0					
Qualifications	896.4		-208.0					
Prof.Standards	893.4		-1.2					
Entity Regulation	115.9			-376.0				
Quality/QASA	873.3		-368.5					
	7,086.0		-1,322.7	-376.0	-1,381.7	100	4,005.6	
Other Expenditure:								
Corporate								
Chairman & C. Exec.	1,514.5	-221.9				80	1,034.1	258.5
Donations		221.9				100	221.9	
Representation								
Professional Affairs	971.0	-971.0				100	162.0	
Training for the Bar		162.0				80	119.4	29.8
Young Bar		149.2				100	58.1	
Professional Practice		58.1				85	57.4	10.1
ADR		67.5				85	98.9	17.4
IT Panel		116.3				80	61.9	15.5
Employed Bar		77.4				100	119.9	
Neuberger		119.9				80	57.4	14.3
Legal Services		71.7				100	76.8	
Law Reform		76.8				95	68.5	3.6
Access to the Bar		72.1				80	402.9	100.7
Remuneration	872.3	-368.7				0		368.7
Fees Collection		368.7				80	433.6	108.4
International	542.0					100	116.0	
Europe	116.0					75	434.2	144.7
Communications	578.9					0		214.4
Member Services	1,289.8		-1,075.4					
	4,370.0	0.0	-1,075.4				PCF-Core 7,528.4	
								1,286.3
							Other Inc.	-151.2
							From MSF	1,135.1
Total Expenditure =	12,970.5							
Funded, as follows:								
PCF-required	7,528.4							
Estimated shortfall	-20.3							
PCF- Entity Reg.	376.0							
Dir. Attrib. Income:								
Regulation	1,322.7							
Representation	1,075.4							
Inns Subventions	1,381.7							
Other Income	151.2							
Member Services Fee	1,135.1							
Total Income =	12,950.2							

BAR COUNCIL

2012/13 PCF APPLICATION TO THE LSB

2.4 – NON-REGULATORY ACTIVITY CLASSIFIED AS “PERMITTED PURPOSES”

2012budgetpermittedpurposeslsb

Introduction

As part of its annual budget-setting process, the Bar Council has considered section 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 section 46 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.

Generally

A summary of the percentages attributed by the Bar Council to amounts from the Practising Certificate Fee (PCF) for the financial year 2012/13 is set out in the table at Annex 1.

In summary, the work of the Bar Council which is not of a regulatory nature is nonetheless designed to support the regulatory objectives set out in section 1(1) of the Legal Services Act 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 participation in the legislative process.

Activity which could be described as a ‘trade union’ function (in particular the making of representations about rates of remuneration, which is undertaken in the interests of barristers as well as the public interest) is undertaken mainly by a number of Specialist Bar Associations (SBAs), notably the Criminal Bar Association and the Family Bar Association, on behalf of their members. Although the Bar Council provides certain administrative and other support services to some of the SBAs (under agreements with the Member Services Department, to which no amounts from the PCF may be applied), it is the SBAs which take the lead on making representations on remuneration and related matters on behalf of their members and in order to represent their particular interests, rather than the Bar Council itself.

The fact that there is not a higher percentage of Bar Council work attributable to permitted purposes reflects the fact that there are occasions when the representational or “trade union”

work of the Bar Council is undertaken for the benefit of the Bar *as a whole* (rather than for a particular section of members' interests) and in the interests of the administration of justice.

A detailed explanation of permitted purposes in relation to each of the relevant functional areas or representative committees follows below.

Professional Practice Committee

The work of the Professional Practice Committee (PPC) remains 100% within the Permitted Purposes and in particular section 51(4)(a)(ii) namely "the giving of practical support, and advice about practice management, in relation to practices carried on by such persons". This has been the percentage allocated in the past and it remains applicable. There is also a strong consumer/public interest element to this work. The promotion of best practice, advice and guidance as to proper conduct in practice is designed with this objective in mind. Work undertaken in this area is often directly complementary to the work of the Bar Standard's Board (BSB). There is a good working relationship in particular with the BSB's Standards Committee which sees and approves all PPC guidance which offers interpretation of the Code of Conduct. The PPC's principal activity is to offer guidance, both orally and in writing, to members of the profession in matters relating to the Code of Conduct. This guidance is provided through the medium of the Bar Council's website (approximately 200 documents including FAQs), and through the ethical enquiries helpline (handling approximately 600 enquiries per month).

The PPC also responds to consultations from the BSB and other relevant bodies in relation to matters relating to the Code of Conduct. For example, the PPC has recently submitted responses to the BSB on changes to the Standard of Proof in its prosecutions, and is in the process of submitting a response to the BSB on its QASA consultation.

The PPC also assists other committees or the Inns with relevant events. For example, for the PPC regularly provides practitioner members for Code of Conduct sessions run by the International Committee and the Young Barristers' Committee. This year, for the second year running, representatives of the Committee will appear on a Panel at a Lincoln's Inn Practice Management Course.

Training for the Bar Committee

Similarly, the work of the Training for the Bar Committee (TfBC) falls 100% within the permitted purposes, particularly 51(4)(a) ("the ... education and training of ... persons wishing to become [authorised] persons"). This activity is complementary to, rather than in competition with, BSB's activities in education and training. The TfBC acts very much in the public interest in the dissemination of educational materials to school children, students and others considering a career at the Bar explaining how those aspiring to become barristers might pursue their interest in doing so, the qualifications and standards that need to be attained and, once qualified, be maintained. There is also a strong element of the promotion

of equality and social mobility in the work of the TfBC, in its support of the Social Mobility Foundation's Annual Placement Scheme, in its continued facilitation of the Lord Neuberger's recommendations for improving access to the Bar (see below), its work with the Inns of Court, its work with the Sutton Trust, its 'speak up for others' programme and its Pupillage Portal Service. Significantly this work seeks to promote public understanding and awareness of human rights and fundamental freedoms.

International Committee

Much of the international activity of the Bar Council is focused on the promotion of relations with relevant international bodies, governments or the legal bodies of other jurisdictions (section 51(4)(f)). There is a strong public as well as consumer interest in this activity. Of its activities 80% fall to be covered by the permitted purposes in this way. This allocation recognises that the promotional activity referred to has an ancillary purpose which is to create opportunities for identifying possible business development. The promotion of legal services has been recognised by the UK Government as a key element of the Government's growth strategy which is helping to attract overseas business to lawyers in England and Wales (and thereby to contribute amongst other things to the strength of the City of London as a leading global financial and professional services centre). The promotional work of the International Committee also serves to promote the virtues and the values of our common law system and to emphasise the high quality of our judiciary and the justice system. The Bar Council's overseas missions fulfil an important educational purpose by informing foreign lawyers about English law and help to improve knowledge sharing by building and maintaining effective relationships. CPD-style seminars are therefore at the core of most of these missions. In addition, a number of meetings are arranged with legal bodies and associations in the local jurisdiction to facilitate exchanges of information about legal developments in areas of mutual interest to the countries concerned.

Incoming delegations from foreign bar associations to England and Wales fulfil similar objectives. It is considered to be in the wider public interest to raise standards in the legal profession world-wide in these ways. Such activities are supported by the production of publications, which are designed to educate foreign lawyers about English law, the holding of the Bar Council's annual International Rule of Law Lecture (designed to advance debate about and interest in the rule of law within the legal profession), our membership in the International Criminal Bar Association which supports those practising before the international criminal tribunals, and our support for an annual UN Association lecture:

Maintaining good working relationships with overseas legal bodies is the reason for the Bar Council's active engagement in the work of the International Bar Association (IBA), the Commonwealth Lawyers Association and the Council of Bars and Law Societies of the European Union (CCBE) which is designed to influence the development of international

aspects of the regulation of the legal profession and law reform in the public and the consumer interest. This work is carried out in close liaison with the BSB and covers, for example, the development of IBA Principles for the Conduct of the Legal Profession and the reform of the EU lawyers directives. The Bar Council is also involved in international Exchange Schemes for lawyers, whereby overseas' lawyers visit this country in order to learn about English law and professional standards and English barristers spend time abroad gaining practical legal experience, are run in cooperation with foreign bar associations and help to maintain and strengthen our international links and promote respect for the UK legal profession and for the Rule of Law.

The Bar Council's involvement in the planning and organisation of the annual Opening of the Legal Year activities in London reinforces the above, through a series of set-piece, high profile events which are designed to forge and develop links with foreign and international bar associations.

Not covered by the permitted purposes

Some elements of the International section's activities are more heavily weighted towards business development than others in which this element is secondary or incidental to the provision of education and relationship building. Overseas missions which are organised by the Bar Council with a primary purpose of business development are invariably supported financially and in other respects by particular SBAs that wish to pursue a specific business objective of their members related to the development of the association's professional specialism or to target a specific geographic market to reflect their members' needs and interests. In these circumstances, it is therefore considered appropriate that 20% of International activities should not fall to be treated as 'Permitted Purposes' to which amounts raised by the PCF could be applied.

European Committee / Brussels Office

The Bar Council has maintained a presence in Brussels for several years and engages the services of a consultant to act as the eyes and ears of the Bar Council at the heart of government in the EU. The consultant monitors the output of the EU institutions that might have a bearing on the reform and development of English law, the administration of justice in England and Wales and the consumer as well as the public interest. She identifies EU-wide consultation exercises and related initiatives and draws them to the attention of the Bar Council's European Committee (as well as other representative committees) and to the BSB. The Bar Council's consultant, who occupies a modest office in Brussels (in a room in premises shared with several other law societies and bar associations) transmits the views of the Bar of England and Wales to the institutions of the EU as well as to the UK's Permanent Representation on a wide range of legal matters affecting the development of EU law and

justice including matters of family law, administration of estates, contract law and IP). Accordingly, this function falls 100% within the permitted purposes.

Employed Barristers Committee

Of the activities carried out by the Employed Barristers Committee (EBC) 80% fall in part within the permitted purposes. The committee's principal activity is to respond to consultations initiated by the Government, EU, the Law Commission and other bodies on matters of law reform and legal practice, offering the particular perspective of barristers in employed practice. As such, their participation in the legislative process falls within the ambit of section 51(4)(c). The committee also organises an annual conference and arranges seminars for members of the employed Bar which are geared to providing practical support and advice, as covered by section 51(4)(a) and section 51(4)(a)(ii). One of the key objectives of these conference and seminars is to raise awareness of the importance of law reform issues in legal circles (section 51(4)(c)).

Not covered by the permitted purposes

A small proportion of what is a very small budget for the conference and publications produced by the EBC could be categorised as closer to lobbying in the interests of the Employed Bar rather than providing an Employed Bar perspective in the interests of the administration of justice more generally. Accordingly, in recognition of this element, 20% of the committee's costs have been designated as non-permitted purposes and are purposes funded by other sources.

Young Barristers Committee

80% of the work carried out by the Young Barristers Committee (YBC) falls within the permitted purposes. Many of the committee's activities fall within sections 51(4)(a), 51(4)(a)(ii), 51(4)(c) and 51(4)(f).

The committee's principal activities are as follows :

- i. to consider matters affecting the administration of justice and other matters affecting the interests of the young Bar
- ii. to respond to consultations from the government, the EU and others
- iii. to organise an annual conference, providing education and training, practical support and advice about practice management as well as covering certain areas of the legislative process
- iv. to organise seminars on legal issues

- v. to promote the work of the Bar at international and national events, such as organising the International Weekend at the start of the Opening of the Legal Year and attending several international events throughout the year.

In responding to consultations, which will inevitably affect the administration of justice, the YBC are participating in the law reform and legislative process, contributing towards maintaining and raising professional standards, and providing advice on the regulation, accreditation, education and training of applicable persons.

The YBC are involved in the promotion of relations between the Approved Regulator and relevant national or international bodies and the legal professions of other jurisdictions but from the young practitioner perspective and, for example, they do so through their work with the JLD International Weekend, and ensuring they have a strong presence at international events.

Not covered by the permitted purposes

The YBC performs an important function in ensuring that those new to practice (as well as those about to join the profession) have their perspective included in relevant consultations on law reform and administration of justice issues. However, there are occasions when that activity does become more in the nature of lobbying for or representing the interests of the Young Bar as a sector of the Bar rather than forming a contribution to the interests of the administration of justice more generally. In recognition of this element, 20% of the committee's costs have been designated as non-permitted purposes, funded by other sources.

Remuneration (Policy)

Remuneration (Policy) activities are **80% within the boundaries of the permitted purposes**: see sections 51(4)(a)(ii), 51(4)(c) and 51(4)(f). Activities include:

- i. Providing legal, policy and economic analysis and advice to Government and Parliamentarians on primary and secondary legislation (including measures relating to the remuneration of the profession from public funds)
- ii. Communicating to the profession about remuneration matters including changes in Government policy (including tax and benefits matters) and offering practical support and guidance in relation to how these changes might affect the management of their practices
- iii. Providing education and training to the profession (and those who support it e.g. barristers' clerks and practice managers) on remuneration matters including changes in Government policy

- iv. Providing guidance to the profession and other interested parties on remuneration matters affecting the profession (for example, through a telephone helpline which specifically addresses remuneration, tax, funding and fees issues)
- v. Responding to requests from, and consultations initiated by, Government Departments and related bodies on the development of public policy affecting the remuneration of legal services providers including barristers, including the provision of advice on legal aid contracts and related procedures of the Legal Services Commission.

Not covered by the permitted purposes

Within those activities which fall squarely within the permitted purposes, there are occasions when the Remuneration Team is acting primarily in furthering the interests of the Bar. Elements of the annual conference and events in which they are engaged, for example, will be geared to offering guidance in relation to such matters as how to win work, the best fee arrangements in which to enter and the optimum tax positions for practitioners to adopt. In recognition of this element, 20% of the committee's costs have been designated as non-permitted purposes, funded by other sources.

Remuneration (Fees Collection)

0% of the Fees Collection activities can be attributed to the permitted purposes. Those activities include:

- i. Operation of the Withdrawal of Credit Scheme in cases in relation to fees disputes between solicitors and barristers. Barristers who are owed money by solicitors and who have sent the standard letters and not received a satisfactory response, can report the matter to the Bar Council. The Bar Council will contact the firm to ask for an explanation for the delay in payment and then consider whether to make a Direction against the firm. The effect of a Direction is that no member of that firm may instruct a barrister in a privately funded matter unless the fees are paid in advance or the work is done *pro-bono*
- ii. Operation (with the Law Society) of the Joint Tribunal Service. The Tribunal hears disputes between barristers and solicitors regarding the amount of fees charged.

Law Reform Committee

The activities of the Law Reform Committee are 100% within the Permitted Purposes. The committee's principal activity is to respond to consultations from the Government, EU, the Law Commission and others on matters relating to law reform issues. As such, their participation in the legislative process has a clear public interest and falls within category section 51(4)(c). The Committee also organises an annual lecture, seminars and an essay competition (open to students and pupils in chambers, to encourage the promotion of awareness of law reform issues and the maintenance and raising of professional standards) all of which fall within section 51(4)(a). A key objective of the lecture is to raise awareness of the importance of law reform issues in legal circles and, as such, comes squarely within section 51(4)(c).

Legal Services Committee

The activities of the Legal Services Committee are 80% within the Permitted Purposes. Many of the committee's activities fall within sections 51(4)(a), 51(4)(a)(i), 51(4)(a)(ii), 51(4)(c) and 51(4)(f). The committee's principal activities are as follows :

- i. To consider matters affecting the administration of justice, rights of audience for the Bar and people other than barristers
- ii. To maintain relations with and making representations to government, the EU, the Law Society and other organisations with common interests in the administration of justice
- iii. To keep under review developments within the legal services market with particular reference as to how they affect the work of the Bar and by extension the efficiency and effectiveness of the market more generally
- iv. To monitor and liaise with the Bar Mutual Indemnity Fund (BMIF) and keep apprised of issues affecting the professional indemnity insurance of the Bar
- v. To monitor and co-ordinate the work of the Access to the Bar Committee and also the Information Technology Panel and Alternative Dispute Resolution Committee.

The Legal Services Committee provides an important function in responding to consultations from Government and others on matters which affect the administration of justice, rights of audience for people other than barristers and matters affecting the Bar generally. In responding to these consultations, the committee's activities fall within one or more of a number of categories; they are participating in the law reform and legislative process; contributing towards maintaining and raising professional standards; and

providing advice on the regulation, accreditation, education and training of applicable persons.

The committee also engages with government and other external bodies about the way in which the Bar practises and in providing advice about the justice system generally. It is clearly in the public and consumer interest that there should be liaison and discussion between the Bar and other agencies in the justice system and that the Bar should make a significant contribution to the administration of justice. The work may also lead to the issuing of guidance to the Bar on good practice. The committee also has a role in monitoring the work of a number of committee's all of whose activities to a significant extent can be classified as being within the permitted purposes.

Not covered by the permitted purposes

The committee undertakes a number of projects which are geared towards the development of the work of the Bar or protecting the interests of the Bar. The proportion of this purely representational work, amounts to approximately 20% of the overall programme and is excluded from a call on PCF-derived funds (even though in some areas it could be viewed as coming within the scope of section 51(4)(a)(ii)).

Access to the Bar Committee

95% of the activities of the Access to the Bar Committee are covered by the permitted purposes. The committee's aim is to explain and interpret the practical application of the regulatory framework governing the public and licensed access schemes to both the Bar and consumers. In doing so, the ABC is very much within the ambit of sections 51(4)(a), 51(4)(a)(i), 51(4)(a)(ii). It promotes the public interest and the interest of consumers, encourages a diverse and competitive legal profession, promotes consumer choice and value for money services and encourages access to justice more generally. Much of this work is complementary to the work of the BSB which of course is responsible for setting the regulatory framework for the schemes. On occasion, the committee also provides practitioner input and support to the regulatory processes that review and update that regulatory framework. The ABC also providing practical support and guidance to barristers, participating or contemplating participating in the schemes and, as such promotes the maintenance and raising of professional standards in this area.

Not covered by the permitted purposes

A small element of the ABC's activity could be construed as active promotion of the schemes as an alternative strand to practice/income for barristers (such as some of the advice covered in occasional publications) and as such this element is covered from non-PSF resources.

Alternative Dispute Resolution Committee

The activities of the Alternative Dispute Resolution Committee (ADRC) are primarily permitted purposes 85% funded by PCF funds and the remainder by other resources. Its aims include the provision of education and information in relation the use and benefit of mediation to the consumer and to the Bar practising in that area. In doing so, the committee encourages alternative avenues for consumers to access justice and seek redress in turn creating broader consumer choice, to promote competition within a diverse legal profession and to enhance the maintenance and raising of professional standards, in part through the practical support and advice offered to barristers. This activity falls squarely within sections 51(4)(a), 51(4)(a)(i) and 51(4)(a)(ii).

Not covered by the permitted purposes

A very minor part of ADRC's activities promote ADRC as an alternative workstream for the benefit of barristers and is less focussed on how the provision of those services contributes and benefits the system of justice more generally. For this reason 15% of the Committee's activities are attributed to non-PCF funds.

Information Technology Panel

85% of Information Technology (IT) Panel activities fall within the permitted purposes. The work of the panel is focused mainly on promoting the maintenance and strengthening of professional standards through the provision of guidance in relation to relevant legislation (such as the Data Protection Act), good IT practice and information security, membership of and relationship-building with other relevant national bodies such as ITAC, the HM Courts and Tribunals Service, and other government bodies as well as with the suppliers of IT services to those supporting the IT infrastructure of the justice system such as listing software suppliers. The panel also offers training and educational activities to members of the profession. This activity falls within sections 51(4)(a), 51(4)(a)(i), 51(4)(a)(ii) and 51(4)(f).

Not covered by the permitted purposes

There is an element of the IT Panel's work which cannot be covered by PCF activities. Although they occur relatively infrequently, these activities do feature in the work of the Panel and include advice to the Bar on the use of IT for commercial and marketing activities. For this reason, 15% of its activities are funded by non-PCF resources.

Neuberger Monitoring and Implementation Group

100% of the activity of the Neuberger Monitoring and Implementation Group (NMIG) falls within the Permitted Purposes and includes: 'training' and 'education' of barristers

and those wishing to become barristers (section 51(4)(a)); to address and promote objectives of the Equality Act 2010 to which the Bar Council as an approved regulator is subject (specifically 'advance equality of opportunity between people from different groups') (section 51(4)(a)(ii)); to address and promote other objectives of the Equality Act 2010 to which the Bar Council as approved regulator is subject (specifically to 'eliminate unlawful discrimination and other conduct prohibited by the Equality Act' and to 'advance equality of opportunity between people from different groups').

Communications function (and Public Affairs Committee)

A significant proportion (75%) of the work of the Communications team is legitimately **within the permitted purposes**. It is geared towards the promotion of standards and good practice, publicising practical guidance, promoting entry to the Bar, advocating greater social responsibility by the Bar (in particular working in conjunction with the Inns of Court and government in relation to the 'social mobility agenda'), publicising training events and *pro bono* work, and supporting the promotion of events such as the Schools Mock Trial competition. This activity is very much in the public and consumer interest. A proportion of the work of the team falls under the Approved Regulator function and complements the BSB's regulatory communications function. This includes, for example, the communications effort to generate awareness within the profession about changes and obligations (such as the 'authorisation to practice' regime) created by the implementation of the Legal Services Act 2007.

Not covered by the permitted purposes

Some aspects of the work of the Communications team are closer to lobbying government, opinion-formers and others in the interests of the Bar as well as in the public interest and this element in so far as it relates to promoting the needs of the former means that it cannot be construed as falling entirely within permitted purposes and, for that reason, 25% of the team's activities are covered by non-PCF resources.

21 October 2011

Committee/Functional Area	%age attributable to PCF income
Professional Practice	100
Training for the Bar	100
International	80
Europe / Brussels Office	100
Employed Barristers	80
Young Barristers	80
Remuneration (Policy)	80
Remuneration (Fees Collection)	0
Law Reform	100
Legal Services	80
Access to the Bar	95
Alternative Dispute Resolution	85
IT Panel	85
Neuberger Group	100
Communications	75

BAR COUNCIL

2012/13 PCF APPLICATION TO THE LSB

3.1 – BUDGET FOR REGULATORY FUNCTIONS

2012budgetregulatoryfunctionslsb

In setting its' 2012/13 Budget, (see Section 1 Income & Expenditure Account: Regulation and Section 2 Allocation Of Overhead: Regulation), the BSB was conscious that the current economic climate dictated that the costs of regulation must be constrained and even, if possible, reduced. There was a careful balancing act to manage, namely, on the one hand to avoid causing the PCF for 2012/13 to be set at levels which might lead to outright hostility from the profession, with calls of being out-of-touch in the face of a time of widespread public austerity, while on the other hand, adhering to the responsibility for key regulatory tasks, as demanded by the LSA 2007 and overseen by the LSB.

Against a backcloth of what would be the realistic expectations of reasonable delivery from the current staff base, there has been no compromise on the following:

- All programmes of core regulatory activity, which the BSB has historically undertaken;
- All regulatory programmes previously publicly committed to in the Strategic Plan or elsewhere and in respect of which funds have been committed to by the Approved Regulator, through the medium of the Finance & Audit Committee, for developments such as QASA and Entity Regulation; &
- Any programme of work anticipated through LSB initiatives, which have already been announced or that can be reasonably predicted.

However, reductions over initial Budget bids have occurred in the following areas:

- External relations and communications activity associated with the above programmes, such as fewer "roadshows"; reduced paper publications; no "Clementi" debate; no BPTC Conference;
- A reduced range of organisational development and capacity-building initiatives;
- The deferment of investment in capacity to deal with FoIA compliance, following externally obtained guidance/advice;
- Realistic assessments of committee and working group activity to historical levels of participation, that is, assuming that not all members will attend each and every meeting; &
- More working group activity being undertaken by internal staff, rather than group members, which might incur fees.

Additional Central Services resources that have been provided for in the Budget include more office space, an increase in IT systems support (consequent on the implementation of a new core database in 2011) and research project expenditure. Apart from these items, the emphasis for next year will be on improving and managing the efficient use of existing resources.

BAR COUNCIL

2012/13 PCF APPLICATION TO THE LSB

4.1 – INFORMATION SENT TO BARRISTERS CHARGED WITH PAYING THE PCF

2012budgetclaritylsb

The following information will be sent to all practising members of the Bar in 2012:

- Letter of Notification of PCF payable (to be prepared);
- How the PCF is compiled (see 4.2 attached);
- (Draft) Letter * from the Bar Council Officers (see 4.3 attached); &
- (Draft) Letter from the Chair – BSB (see 4.4 attached).

In addition, a final copy of the Budget and PCF proposal will be placed on the Bar Council website.

[* = The version included herewith is addressed to the members of the self-employed Bar. There is a separate version addressed to members of the employed Bar, which has been omitted here for brevity.]

BAR COUNCIL

2012/13 PCF APPLICATION TO THE LSB

4.2 – HOW THE PRACTISING CERTIFICATE FEE (PCF) IS COMPILED

2012budgetcompiledlsb

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 2012/13 budget is on the Bar Council website: www.barcouncil.org.uk.

At the end of each financial year, the Bar Council publishes its *Annual Report and Accounts*, which include comprehensive narrative on past performance and future expectation, audited figures of income and expenditure and an analysis as to how expenditure is allocated against the ‘permitted purposes’.

Income from payment of the Practising Certificate Fee (PCF) can only be applied in accordance with the permitted purposes defined in s51 of the Legal Services Act 2007. Representational activity which falls outside the ‘permitted purposes’ must be funded separately. Payment of the Member Services Fee (MSF) enables the Bar Council to provide a wider range of representational activity, across the following services: 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. A barrister who takes advantage of the benefits negotiated by the Member Services team could save considerably more than the cost 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. Additionally, in 2012/13 the core fee includes the recovery of the £376k spent on establishing an entity regulation regime.

The core fee for 2012/13 is as follows:

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

Employed Core Fee (12 months)		
	Core Fee £	MSF £
QC	750	150
Junior (13 years' Call and over)	527	100
Junior (eight to 12 years' Call)	295	100
Junior (five to seven years' Call)	159	100
Junior (three to four years' Call)	70	100
Junior (one to two years' Call)	70	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 2003 will on 1 April 2012 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 2012 to 31 March 2013 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

The Bar Council Staff Defined Benefit Pension Scheme (the Scheme) levy is the result of a decision by the Bar Council taken on the 3 October 2009 and reiterated on the 2 October 2010, to raise money to mitigate the risk of past services liabilities of the Scheme being passed onto the junior Bar, many of whom face an uncertain financial outlook in the years to come. The Scheme has been running since 1974 and over the years the costs of pension provision has risen steadily. To address the rising costs, in 2006 the Scheme was closed to new members.

The *Annual Actuarial Report* as at 1 October 2010, issued by the Scheme actuary, calculated that the current deficit on the Scheme is £ 6,077,000 assuming that the Scheme is not wound up. The sum of £5.1m raised by the 2010 and 2011 pension levies is being applied to address

this liability. In addition the Bar Council consulted staff on a recast DB scheme that would represent a similar cost, if not risk, to the employer as that offered to staff members of the Defined Contribution Scheme (the Stakeholder Scheme). As a result of this exercise, 36 members of staff have now withdrawn from the scheme with effect from 30 September 2011 and are considering applying to join the Stakeholder Scheme. Only nine employees remain as active members.

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 £2. Thus the levy will range from zero for newly qualified barristers who have had no benefit from the staff, to £76 for the most experienced barristers who have had the capped maximum of 38 years' support from staff. It is estimated that this levy will raise approximately £400,000. Another levy may be required in 2013/2014.

Staff DB Pension Scheme levy 2012/13 – examples		
Year of Call	Years' Call in 2012	Pension levy £
2010	2	4
1997	15	30
1987	25	50
1982	30	60
1977	35	70
1974 and previously	38	76

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 2012/13 is £1,096,600. These costs have been allocated across the profession on the same ratio as the core fee bandings as indicated in the following table:

Self-employed/employed LSB and LeO levies 2012/13 £	
QC	140
Junior (13 years' Call and over)	95
Junior (eight to 12 years' Call)	47
Junior (five to seven years' Call)	25
Junior (three to four years' Call)	10
Junior (one to two years' Call)	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.

For those in the five to seven years' Call band the Core fee is reduced to £133 for the Self Employed Bar and £101 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 £4 (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 £2 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

	Core fee £	Core fee reduced rate £	LSB/LeO levy (no waiver) £	Pension reduction	Practising Certificate Fee due
QC	1058	716	140	Total number of years' Call - two years x £2	CF + LSB/LeO + Pension levy
Junior (13 years' Call and over)	716	367	95	Total number of years' Call - two years x £2	CF + LSB/LeO + Pension Levy
Junior (eight to 12 years' Call)	367	195	47	Total number of years' Call - two years x £2	CF + LSB/LeO + Pension levy
Junior (five to seven years' Call)	195	133	25	Total number of years' Call - two years x £2	CF + LSB/LeO + Pension levy

Employed

	Core Fee £	Core Fee reduced rate £	LSB/LeO levy (no waiver) £	Pension reduction	Practising Certificate Fee due
QC	750	527	140	Total number of years' Call - two years x £2	CF + LSB/LeO + Pension levy
Junior (13 years' Call and over)	527	295	95	Total number of years' Call - two years x £2	CF + LSB/LeO + Pension levy
Junior (eight to 12 years' Call)	295	159	47	Total number of years' Call - two years x £2	CF + LSB/LeO + Pension levy
Junior (five to seven years' Call)	159	101	25	Total number of years' Call - two years x £2	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 (2nd Six). After expiry of this certificate, pupils pay the relevant PCF in accordance with their year of Call.

BAR COUNCIL

2012/13 PCF APPLICATION TO THE LSB

4.3 – DRAFT LETTER FROM THE BAR COUNCIL OFFICERS

2012budgetofficersbclsb

All Members of the self-employed Bar

[] February 2012

DRAFT

Dear Colleague

As in previous years we are writing to you about the work of the Bar Council to explain 'where your money goes' and what the Practising Certificate Fee (PCF) and the Member Services Fee (MSF) finances. This letter summarises what the Bar Council has been doing over the past year and what it is planning to do for you in 2012.

The demands on the Bar Council in its Approved Regulator (AR) and representative capacities have continued to grow, relentlessly. These demands include the regulatory costs faced by the Bar Council through its independent regulator, the Bar Standards Board (BSB). We have fought to keep the increase in the BSB's costs to the minimum possible this year, but increases are largely accounted for, once again, by the statutory levies for the costs of the Legal Services Board (LSB) and the Office for Legal Complaints (OLC); the need to plan for a potentially expanded role of the BSB as an entity regulator as envisaged by the Legal Services Act 2007; and the development of the Quality Assurance Scheme for Advocates (QASA), to ensure that the highest quality standards in advocacy are maintained and strengthened.

The Bar Council has also been involved in the essential procurement of a new core database to cope with the increased demands that are being placed on the profession and ensure effective regulatory delivery by the BSB as well as more efficient delivery of representational services to members. In addition, there is a levy to cover the reduction of the Bar Council's staff pension fund deficit, for which we are required by statute to make provision. The levy this year is considerably smaller than in recent years.

The Bar, both self-employed as well as employed, has been no more immune than the rest of the country from the dire financial straits of the economy. When the Bar Council's General Management Committee and the Bar Council itself met, on 7

November 2011 and 12 November 2011 respectively, to consider draft 2012/13 Budget proposals made by the Finance and Audit Committee (which would have resulted in a 5% increase in the PCF, to cover an increase in expenditure mainly in regulatory activity), the situation of the Bar (and the plight of the publicly funded Bar) was considered very carefully. The FAC's proposals were endorsed by the Bar Council for consultation with the profession, self-employed as well as employed. Seventy-five responses were received from individuals together with submissions from the Bar Association for Commerce, Finance and Industry (BACFI), the Chancery Bar Association, the South Eastern Circuit and the Western Circuit. Not surprisingly nearly all respondents were against any increase in the PCF and many representations called for cuts in the Bar Council's expenditure. We have also received representations from some members of the Bar calling for a "5% Solution" (that is to say, cuts of 5% in Bar Council expenditure, year on year over 5 years). We have considered all of these views.

The increase in the Bar Council's regulatory costs, for the reasons referred to above, has placed the funding of the Bar Council's representative activity which does not fall within the "permitted purposes" (as defined in section 51 of the Legal Services Act 2007) under exceptional strain. For the Bar Council to stand up and fight for the publicly funded Bar, to expand work for the Bar at home (and, increasingly, in overseas markets), and to speak for the young Bar a minimum level of funding is necessary for our effort to be effective. In response to the representations we have received, we have revised the PCF increase down to 3% (below the rate of inflation), with the result that we have had to make further cuts.

The Bar Council has been working hard on the profession's behalf to minimise the scale of cuts in legal aid and changes in funding the civil justice system to which the Legal Aid, Sentencing and Punishment of Offenders Bill seeks to give effect. We are continuing to do all we can to ensure that the Bar is able (through appropriate contracting arrangements and practice structures) to compete for available publicly funded legal services and to help the Bar to win work. This will benefit publicly funded barristers as well as those who work with local authorities and other block purchasers of work from the Bar.

Just some of our past and future work in representing the interests of the profession includes:

- **Communicating with Government and Parliament** - We make a significant investment of time and money in negotiation with the Government, the Legal Services Board (LSB), the Legal Services Commission (LSC), the Law Society and other interested bodies at home and abroad, in collaboration with the Circuit Leaders, the Specialist Bar Associations (SBAs) and the Inns. This includes lobbying Government Ministers, officials, interest groups and Parliamentarians on legislation directly affecting the Bar (notably the Legal Aid Bill), the Bar's clients and the wider public. There is an investment in attending the three main party conferences, attending meetings in Whitehall and other Government offices as well as visits to Circuits.

- **Fees Issues** - The Remuneration and Policy Department continues to handle over 1,000 enquiries a year from individual barristers on a wide range of issues including publicly funded fees schemes, Conditional Fee Agreements, taxation, private fees and publicly funded fees. In addition, with the Remuneration Committee, the Department has led negotiations with the CPS over its new Panel arrangements, organised another very successful Remuneration Conference and produced guidance in relation to tax and other remuneration matters. We have also been actively engaged with the Chairman, Chief Executive and other officials at the LSC in doing all we can to drive down delays in payment of barristers' fees by the Commission.

Over the past year, the Fees Collection Office has received approximately 2,200 complaints of unpaid fees with a value of about £4.4m under the Withdrawal of Credit Scheme. During the same period the team have recovered approximately £2.2m worth of unpaid fees for counsel. Following very extensive consultations and approval of necessary rule changes by the LSB, it is anticipated that the LSB will approve the introduction of the completely revised Standard Contractual Terms of Work later this year.

- **Ethical Guidance** - The Professional Practice Team's Ethical Enquiries Helpline continues to handle on average nearly 600 calls each month from practising barristers. We know this service is valued and we want to be in a position to continue to provide it with the necessary support.
- **International Work** – Our work continues the twin themes of “trade and values”. Pressures on the publicly funded Bar have highlighted the need for the Bar Council to expand the work of the Bar and to develop new markets for barristers, at home and overseas. Key market development activities over the past year have included missions to the Gulf, China and Russia where, in addition to promoting barristers' services internationally, we have championed the Rule of Law as well as the core values and virtues for which the Bar stands. Our work in this area has been augmented by the Bar and the City Working Group led by the Chairman-Elect to promote the services of the privately funded Bar at home and abroad, the significance of which was demonstrated by the recent launch of the “Unlocking Disputes” initiative timed to coincide with the opening of the Rolls Building. It is important to understand that, wherever possible, these events are self-funding with the cost of receptions met by advertising revenue and other costs often being met by sponsorship of foreign governments. It is also not uncommon for individuals to pay their own way in order to attend international events.
- **Member Services** - The Bar Council's commercial operations, which are overseen by the Member Services Board, are designed to make the lives of busy practitioners easier. We continue to expand the range of products and services which are tailored for the Bar at discounted rates. Further details are available at: <http://www.barcouncil.org.uk/memberservices/>.

We provide administration and support services for SBAs, Circuits and the Institute of Barristers Clerks. We have made a major drive to increase the number of barristers who can undertake direct access work by providing training courses up and down the country. Nearly 4,500 barristers are in a position to undertake this work. We shall shortly launch a new series of training courses in mediation to enable members of the Bar (particularly at the family Bar) to take up expanding opportunities in that area. The latest edition of *The Bar Handbook* has been published recently and provides readily accessible information about changes to the regulatory framework of the Bar, new business models and other areas of liberalised practice.

The Bar Council is making every effort to communicate with the profession in these difficult times, not least through our website (www.barcouncil.org.uk) and the Chairman's column in *Counsel*, to provide regular updates on our activities which are necessary and not luxuries when the profession is under so much pressure for its continued existence.

The Bar Council will continue to present the Bar as a modern, forward-looking profession that provides outstanding quality and value for money. In the public interest, in the national interest and in the profession's interest, we shall promote the unique services of the employed and self-employed Bar. With your support, and within tight financial constraints, we shall work hard for the future of the publicly funded Bar and stand up for the young Bar. We shall also:

- Develop closer links between the Bar and the City, to promote the Bar's capabilities and skills in international dispute resolution
- Promote Public Access for barristers
- Explore the feasibility of a service to provide BSB-regulated entities and Public Access barristers with an escrow account facility in which "client monies" can be placed which would be administered centrally by a third party
- Explore the scope for bringing Clerks, Practice Managers and Chambers Chief Executives more closely within the fold of the Bar Council's activities (possibly through affiliated membership)
- Facilitate change to enable Chambers that wish to do so to adapt to possible forthcoming changes (which could be announced in 2014) in tendering for publicly funded work and assist Chambers that wish to do so to contract with local authorities and other block purchasers of the Bar's advisory and advocacy services
- Continue to support the valuable *pro bono* work of the Bar, recognising that it can never be a substitute for a properly funded legal aid system
- Make further progress on social mobility and diversity in the profession to attract people of ability irrespective of their background by harnessing the contributions of the Inns, SBAs and the Circuits, by focusing the Bar Council's activity and by reducing duplication and overlap of activity

- Strengthen and improve the Bar Council's communications with Government, Parliament and the media, as well as with the profession
- Improve the organisation and structure of the Bar Council's representative side, building on our *Strategic Plan 2011-13* to ensure that the work of the council is transparent and relevant to the profession's needs, and to make sure that the limited resources of the secretariat are used as efficiently and as effectively as possible

Further details of the Bar Council's plans and activities this year are set out in the Chairman's inaugural address delivered on 5 December 2011, the full text of which is available at:

<http://www.barcouncil.org.uk/assets/documents/111205%20Michael%20Todd%20QC%20Inaugural%20Bar%20Council%20Address%202011.pdf>

Conclusion

The Bar Council will do all it can to help the whole profession to deal with the challenges of the tough times we face. We are required, by the Legal Services Act 2007 (s 30(3)(a)), to ensure that the BSB is provided with the resources it needs to exercise its regulatory functions. Although calls to reduce the PCF are understandable, and no doubt well-intentioned, any cuts can only mean that the representative side of the Bar Council will suffer, thereby weakening our capacity to stand up and fight for the Bar on your behalf, when all agree it is most needed. We shall nevertheless ensure that the high degree of scrutiny of Bar Council finances is maintained and increased in 2012, to ensure that your money is well spent.

The Bar's strengths for delivering the highest quality advisory and advocacy services are critical to our future. We shall ensure that the work of the Bar Council is relevant to the profession, that it promotes the Bar's strengths and maximises the opportunities to shape our future. We need to make an investment in our future in these difficult times. We hope we can count on your continuing support.

With all good wishes,

Michael Todd QC
Chairman of the Bar

Maura McGowan QC
Vice-Chairman of the Bar

Stephen Collier
Treasurer of the Bar Council

BAR COUNCIL

2012/13 PCF APPLICATION TO THE LSB

4.4 – DRAFT LETTER FROM THE CHAIR – BSB

All members of the Bar

Date 2012

Dear Colleague

Bar Standards Board budget for 2012-13

The Bar Standards Board was established in January 2006 as a result of the Bar Council separating its regulatory and representative functions. As the independent regulatory board of the Bar Council, we are responsible for regulating barristers called to the Bar in England and Wales. We take decisions independently and in the public interest and are not prejudiced by the Bar Council's representative function.

We are responsible for:

- Setting the education and training requirements for becoming a barrister
- Setting continuing training requirements to ensure that barristers' skills are maintained throughout their careers
- Setting standards of conduct for barristers
- Monitoring the service provided by barristers to assure quality
- Handling complaints against barristers and taking disciplinary or other action where appropriate.

Much of our activity has a statutory basis in the Legal Services Act 2007 and is driven by the oversight regulator, the Legal Services Board.

The Bar Standards Board takes its responsibility for being accountable for our performance and expenditure seriously. As the profession funds the BSB, it is important to explain the BSB's budget and what the BSB is doing with the funds raised from the Bar for its activities.

The BSB and Bar Council are conscious that the Bar is also paying levies to fund the Legal Services Board (LSB) and Office for Legal Complaints (OLC), as well as continuing to make some contribution to the reduction of the pension deficit. We are also mindful of the continued external pressures that many barristers are facing, with the cuts in legal aid a prime example.

For these reasons, the BSB has sought to keep its budget as close as possible to the 2010 and 2011 baselines. We have only added funds where there are new areas of activity required of us by the Legal Services Board, and have tried to cut other activity where possible to compensate. Our overall budget, including share of overheads, for 2012-13 is £7.086M

The 2012/13 year will continue to pose regulatory challenges. There are important programmes of regulatory work which we have been developing since 2010 which will come to fruition and be introduced; other far-reaching programmes will make significant progress. All our regulatory programmes and projects are designed to improve both BSB performance and the overall regulatory system and are required to comply with the LSB's Regulatory Standards Framework. We will use the funds we raise to:

- Complete consultations on a wholly revised Code of Conduct and a regulatory framework for barristers to work in alternative business structures and Barrister-only entities;
- Prepare to become a licensing body under the LSA 2007;
- Introduce new rules allowing barristers to conduct litigation;
- Implement changes to the current Code of Conduct including a new authorisation to practice regime, new Equality and Diversity Rules and revised Public Access Rules;
- Review and transform our approach to regulatory enforcement to make it more risk based and cost effective;
- Implement the Aptitude Test and Centralised Examinations for the Bar Professional Training Course;
- Prepare for implementation of a revised Continuing Professional Development (CPD) system, following the 2011 review;
- Refine and further development of the Chambers Monitoring programme;
- Launch of a Quality Assurance Scheme for Advocates (QASA) in relation to criminal advocates.

The BSB will publish its final business plan by April 2012, showing all of our work in more detail. The business plan shows the activities in the coming year towards achievement of our strategic plan 2010-2012 and builds upon our 2011 activities.

As the business plan shows, we also anticipate that during the coming year we will have to respond to further consultations issued by other regulators and key stakeholders including the Legal Services Board. We expect to contribute significantly to the formal review by the Ministry of Justice of the LSA 2007 and the Legal Services Board.

The projects outlined above and the need to respond to others' activities are in addition to our usual workload of regulating education & training and Chambers' monitoring, managing the complaints & disciplinary system, and maintaining the Code of Conduct. We must also continue to meet the challenges of the Equality and Diversity agenda, particularly in understanding and giving effect to the Equality Act 2010, and fulfil our obligations in that respect.

We continue to improve our internal processes. During 2012/13 we anticipate developing further our use of the new core database and websites that we invested in last year to support both the BSB's and the Bar Council's work, and developing an intranet to enhance our efficiency. Such projects are either led by or heavily involve our

Central Services team, who are critical to the success of all of our work. The BSB is a heavy user of the Central Services' support functions, such as Finance, Records, Human Resources, IT and our office infrastructure. The costs of Central Services are borne by both the Board and the Bar Council.

The PCF does not fund the entire budget. Income from cost-recovering activities will provide a significant component of our funding, as has been the case since the BSB's inception. We are continually looking at ways of using income from other sources effectively to support the work of the BSB and will be reviewing our charges in 2012 to ensure that where full cost recovery is appropriate, this is being effected.

We will continue to work closely with each of the Inns of Court and with the Council of the Inns of Court. The Inns are an essential part of the framework for ensuring that the Bar retains high standards in education and conduct. We are grateful for all the aspects of support provided by the Inns and we maintain a regular dialogue with them.

The BSB has an ambitious and broad work programme planned for 2012/13. A large number of people contribute to our work in addition to our Board and staff. Many barristers give a huge amount of time and energy to contributing, pro bono, to our formal committees or our working groups. Our lay members also provide invaluable expertise. We are enormously grateful for all of this assistance, without which we would not make the strides we have in improving regulation for barristers.

In addition to the people who contribute directly to our work, we will look to engage with the profession as we contemplate and then make changes. We will be running events and issuing publications during 2012/13 to engage with the profession. We sincerely hope that as many people as possible will contribute in this way as the opinions expressed and information provided really does help with our decision making.

I hope that this assists in explaining our budget in 2011/12. If you have any queries you are welcome to contact Sir Geoffrey Nice, our Vice Chairman or Vanessa Davies, our Director, whose contact details are set out below. We will be happy to receive comments or questions from you.

Yours sincerely



Baroness Ruth Deech
Chair, Bar Standards Board

BSBChair@barstandardsboard.org.uk

BAR COUNCIL

2012/13 PCF APPLICATION TO THE LSB

5.1 – REGULATORY AND DIVERSITY IMPACT ASSESSMENTS

2012budgetimpactlsb

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.

A matrix setting out this alignment for the current year's plan is attached as an example and a refreshed version of this matrix will be published with the 2012/13 Business Plan in March 2012.

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 2.4 "Non-regulatory activity classified as "permitted purposes"."*]

Diversity impact

There is no change to the 2012/13 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 2010/11, 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 3% increase in the PCF has been applied evenly across all bandings, so there is no disproportionate impact upon any particular group.

The regulatory objectives

	Protecting and promoting the public interest	Supporting the Constitutional principle of the rule of law	Improving access to justice	Protecting and promoting the interests of consumers	Promoting competition in the provision of services	Encouraging an independent, strong, diverse and effective legal profession	Public understanding of citizens' legal rights and duties	Promoting and maintaining adherence to the professional principles
Regulation	Aim ① Our standards continuously ensure high quality practice							
	Aim ② All those whom we regulate live up to our standards							
	Aim ③ Clients receive effective advocacy and legal representation from those we regulate							
	Aim ④ We research, design and implement a regulatory framework that reflects the regulatory objectives							
Accountability	Aim ⑤ Excellent governance & management ensure effective independent regulation							
	Aim ⑥ We raise our resources responsibly, use them efficiently and effectively and account for our spending decisions							
	Aim ⑦ We set performance standards, monitor progress and report transparently							
	Aim ⑧ We have an Information Strategy that ensures we deliver 'good customer service'							

The regulatory objectives								
	Protecting and promoting the public interest	Supporting the Constitutional principle of the rule of law	Improving access to justice	Protecting and promoting the interests of consumers	Promoting competition in the provision of services	Encouraging an independent, strong, diverse and effective legal profession	Public understanding of citizens' legal rights and duties	Promoting and maintaining adherence to the professional principles
	Aim 9 The public understands the standards they are entitled to expect from those whom we regulate							
	Aim 10 The profession understands the standards they are required to meet							
	Aim 11 Public, 'relevant third parties' and those we regulate have confidence in us							
	Aim 12 Our people add value							
	Aim 13 Fair and just: we act responsibly in the public interest							
	Aim 14 Innovative: we lead change for better regulation or partner with others to do so							
	Aim 15 Responsive and proactive: we listen, reflect and act; we set the agenda strategically and deliver it							
	Aim 16 We support the development of a profession that reflects the diversity of society and provides equal access to justice for all							
People								
Values								

BAR COUNCIL

2012/13 PCF APPLICATION TO THE LSB

6.1 - CONSULTATION WITH NON-COMMERCIAL BODIES

2012budgetnoncommercialsb

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 its PCF consultation undertaking, the Bar Council invited and was pleased to receive a formal collective response on behalf of the Government Legal Service. Replies were also received from individuals occupying senior positions within other branches of central government, such as the Ministry of Defence, the Treasury and the Law Commission, as well as in local government (Borough Councils).

The FAC took heed of reservations expressed by government-employed practitioners, regarding the proposal to require employed and self-employed practitioners to pay the same PCF. Currently, the employed Bar PCF is about 70% of that of the self-employed Bar.

However, no submissions were received from charitable bodies, perhaps, not surprisingly as the number of barristers working in this sector barely reaches double figures.

It should 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.