

Approved regulator (AR)	Bar Standards Board
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Final application	Type of format received	Confirmed receipt of application?
Receipt of final application on 20 December 2012	Email	Yes - 20 December 2012

**Pre-draft application process including draft documents or correspondence received for assessment against the final application**

	Yes or No	Description	Date
Did the LSB receive a draft application?		No	
Was there a pre-meeting between AR representatives and the LSB?		No	
Do we have any initial concerns arising from the application?	Yes	<ul style="list-style-type: none"> <li>Section 1.6 Consultation with the profession: the LSB/Legal Ombudsman levy has moved down by around 70%, the BC having collected a greater amount in previous years than was needed. BC should say how this occurred and how the BC plan to ensure that this over recovery does not happen in future. As a result of the over-collection, the BSB/BC need to make it clear that they are reducing the amount they will collect for the Levy from practitioners for this year, but this may not necessarily set a precedence for future years. <i>BC indicated that they would review the Treasurer's letter in light of this comment. The explanatory information to be accompanied by the letter notes the over-payment, but it does not explain how the BC will ensure this does not happen again or mention the one-off levy reduction.</i></li> <li>In our approval letter of 26 January 2012 for 2012/13 PCF round, we noted the forthcoming review of how the fee is structured and charged to the regulated community and the reduction of the BSB's income as the Inns of Court subvention payment was expected to halve by March 2015. We suggested in our approval letter that the application for 2013/14 would benefit from a fuller description of the proposed plans to either reduce activity levels, or raise the PCF in the light of the possible phasing out of the Inns of Court subvention payment in 2015. <i>This payment will fall by 25% to £1M for 2012/13 and phased out in equal instalments over the next 3 years. BC note that any shortfall in this payment will be covered by PCF, hence the increase in PCF for 2013/14. BC's future planning includes reviewing the directly attributable income for regulatory activities. Cutting costs (other than for regulatory activity) will be the remit of the new CEO. BC will assess their organisational efficiency and value for money of the PCF.</i></li> <li>Asked for a high level break down of how the BSB expenditure is to be allocated, including new staff resources to find out how this equates with the BSB Regulatory Standards Self Assessment. <i>BC have provided a breakdown of the increase of £794,000 in expenditure for 2013/14 and note that two-thirds of the increase is attributable to an increased headcount.</i></li> </ul>	21/01/2013
Have the concerns or issues of clarification (if any) been resolved?	Yes		
Does the final application include a section on how the AR has dealt with the areas for improvement (if any) highlighted in the previous year's approval letter? If yes, have these issues been dealt with to the satisfaction of the LSB?	Yes	Last year LSB made the following requests to include additional information. 1) A clear summary of the split between corporate, representation and regulation. 2013/14 application: Provided in table format page 19. 2) Analysis in all s.51 applications going forward, noting any changes to the 'non-regulatory activities' which might occur in the year. 2013/14 application: See page 16. The Bar Council say that as part of the annual budget setting process they considered s.51 alongside its planned non-regulatory activities. Essentially, as there were not expected to be any changes of significance in non-regulatory activities classified as 'permitted' and 'not permitted', the BC are of the view that the detailed work undertaken as part of the submission for 2012/13 remains valid.	

**Summary**

The LSB have the required information to consider the application against the PF Rules 2009 and criteria.

**Overall level of concern** No concern

## Section 1: Developing the application and setting the budget

This section of the criteria refers to D10a & D11a /D11d of the Practising fee Rules 2009.

Criteria - application	Yes or No	Relevant information
Is there a description of how the application was developed and settled?	Yes	APPLICATION: Sets out how the application was developed and includes consultation and agreement with the BSB on their budget (pg 4-7). The BSB Executive prepares a Business Plan which is considered as part of the process. The application states that the Chief Executive on behalf of the Bar Council is responsible for overseeing the submission of the application. LSB ASSESSMENT: We are content with the process as set out by the BC which involves consultation with the BSB.
Is there sufficient detail to make an assessment of 'reasonable care' when settling the application?	Yes	Drivers for the overall 5% blended increase (core PCF, LSB/Legal Ombudsman/pension levies) clearly captured in table in page 15 of application. LSB ASSESSEMENT: Satisfied application includes sufficient detail to give us confidence that reasonable care was taken when settling the application.

### Overall comments

No comment

### Evaluation

Satisfied the application meets the criteria and evidence for Section 1. Developing the application that must be provided for this section in each PCF application.

Level of concern

No concern

Criteria - budget	Yes or No	Relevant information
Is there a description of how the budget was developed and settled?	Yes	APPLICATION Full description provided in section 1.4. The Bar Council has approved the budget on the basis that the annual increase in the overall amount paid by each practitioner will be at a reasonable level. LSB ASSESSMENT: The LSB is satisfied that there is adequate description of how the budget was developed and settled.
Is there evidence that the budget was settled in light of immediate and medium term budgetary needs?	Yes	APPLICATION: Budget allowances made for a number of factors, including the possibility of unanticipated decline in income, penalty levies by the LSB/OLC, unanticipated additional tasks such as the new regulatory framework or property related liability. Application also includes BSB Strategic and business plans as part of its 3 year budget bid. LSB ASSESSMENT: We are content that the budget takes into account the immediate and medium term needs for the forecast year and following year.
Is there a description of contingency arrangements/reserves policy?	Yes	APPLICATION: BC provided additional information to the LSB on contingency which totals £240K in aggregate (allocated to a merit review in the Summer of £50K, provision for maternity leave of £80K, staff churn of £60K and training of £60K. Reserves are set at £3M or the value of 4 months expenditure (whichever is the greater). BC have decided not to increase the level of reserves for 2013/14 due to the increase in the level of PCF. LSB ASSESSMENT We are content that the application includes a description of contingency arrangements/reserves policy.
Does this include a section on the consultation with practitioners?	Yes	Refer to Section 4

### Overall comments

No comment

### Evaluation

Satisfied the application meets the criteria and evidence for Section 1. Developing the application that must be provided for this section in each PCF application.

Level of concern

No concern

**Section 2: Permitted purposes**

This section of the criteria refers to D10b & D11e/D11b of the Practising fee Rules 2009.

Criteria	Yes or No	Relevant information
Is there evidence that the income raised through the PCF charge are applied <b>solely</b> to the <b>permitted purposes</b> ?	Yes	APPLICATION: The application provides information on the expenditure categories to the consolidated budget, page 19. It shows that 100% of the BSB expenditure (£8,155,000) is permitted purposes of which £5,623,000 is recouped from the PCF income and the remaining from other income sources. BC undertake permitted purposes activity which is also paid out of the PCF. LSB ASSESSMENT: we are content that enough information is presented to explain that the PCF income has been applied solely to the permitted purposes for BC and BSB.
Does it include a budget that shows the anticipated <b>income</b> from practising fees?	Yes	APPLICATION: On page 25 of the application, the total anticipated income is £8,953,700. Of the PCF income, BSB expenditure accounts for £5,623,000 with the remaining PCF income allocated to the BC for permitted purpose activity. LSB ASSESSMENT: Satisfied budget shows anticipated income from practising fees.

Criteria	Yes or No	Relevant information
Does it include an analysis of <b>expenditure</b> against the permitted purposes?	Yes	APPLICATION: on page 19 the column labelled Permitted Purposes ("P.P.") gives an indication of what portion of each expenditure category is allocated to permitted purpose activity e.g. Regulation: BSB is 100%. It also gives an analysis of what proportion of the BC activity or expenditure category is apportioned to permitted purpose activity e.g. Representation: Professional Affairs is 100%. LSB ASSESSMENT: the application provides a clear analysis of how the PCF income has been split between BSB and BC activities. It also gives a further analysis of the proportion (%) of each expenditure category that relates to permitted purpose activity.
Does it include an analysis of income and expenditure related to <b>all other expected income</b> to be applied to permitted purposes?	Yes	APPLICATION: page 19 shows that 100% of the BSB's expenditure (£8,155,000) relates to permitted purpose activity of which £5,623,000 (page 25) is recouped from PCF income and the remaining is sourced from other income sources including directly attributable income from BSB's regulatory activities and the Inns Subvention payment. LSB ASSESSMENT: We are content that the information clearly sets out the other income to be applied to the permitted purposes.

**Overall comments**

No comments

**Evaluation**

Satisfied that the application meets the criteria and evidence for Section 2. Permitted purposes that must be provided for this section in each PCF application.

**Level of concern**

No concern

### Section 3: Regulatory functions

This section of the criteria refers to D10c D10d & D11c of the Practising fee Rules 2009.

Criteria	Yes or No	Relevant information
Is there clarity and transparency of how the PCF income collected by practising fees is applied to permitted purposes which are <b>regulatory functions</b> (not representative)?	Yes	APPLICATION: Page 19 gives the full BSB regulatory budget of which £5,623,000 is sourced by PCF income. Pages 21-24 gives a description of the regulatory activity anticipated for the 2013/14 year and includes a description of the BSB work programme to be delivered in 2014/15 and an explanation of the planned investment. LSB ASSESSMENT: We are content with the description provided on the regulatory functions of the AR.
Is there a description of shared services?	Yes	APPLICATION: Application did not include a breakdown of Central Services expenditure similar to what was included in the previous year's application. BC provided additional information at the LSB's request indicating that Central Services totalled £5.1M of which two-thirds (approx £3.5M) were funded from PCF and one-third (approx £1.7M) from other income. Of the £5.1M, a total of 56% was allocated to BSB and 44% allocated to BC (for their Corporate and Representation departments). The Central Services is allocated by headcount. LSB ASSESSMENT: We are content with the information provided by BC on Central Services.

Criteria	Yes or No	Relevant information
Is there clarity and transparency of how the PCF income collected by practising fees is applied to permitted purposes which are <b>not regulatory functions</b> ?	Yes	APPLICATION: Page 17 sets out the budget for the BC's non-regulatory activity classified as permitted purposes. Page 20 sets out the BC's overall approach. The BC consider that there are not expected to be any changes of significance in permitted purposes. LSB ASSESSMENT: We are content with the BC's self-analysis of non-regulatory activity classified as permitted purposes.

#### Overall comments

No comment Review once comments back from Brian Buck.

#### Evaluation

Satisfied the application meets the criteria and evidence for Section 3: Regulatory Functions that must be provided for this section in each PCF application.

Level of concern:

No concern

**Section 4: Clarity and transparency**

This section of the criteria refers to D10e of the Practising fee Rules 2009 & section 51(b) of the Act

Criteria	Yes or No	Relevant information
<b>Consultation with members</b>		
Does the application include a description of their consultation undertaken with their members mandated to pay practising fees?	Yes	APPLICATION: Details of consultation pages 11-18. The budget and PCF proposals were posted on the BC website. Profession was invited to comment. LSB ASSESSMENT: We are content with the overall consultation process adopted by the BC, although we are concerned about the low response rate, which declined significantly from 2012/13.
If yes, does the description of the consultation process include transparency and clarity of how the fee level has been set and how the money collected will be used?	Yes	APPLICATION: see details above. LSB ASSESSMENT: the information provided to the profession was clearly detailed, explaining the fees to be paid, the rationale for setting the fees, the full budget details and a summary of the consultation response.
If yes, does the application also include a description of how that feedback influenced the decision-making and policy development processes?	Yes	APPLICATION: Page 18 gives an overview of the outcome of the 2013/14 budget consultation. In the light of the outcome, from the consultation the Finance Committee of the BC took the decision not to make any change in the proposed PCF rates/bandings for 2013/14. LSB ASSESSMENT: Very small number of responses, 41 compared to 75 the previous year. BC gives a percentage breakdown of split in nature of responses but this is not statistically significant because of the low response. See overall comments below.

Criteria	Yes or No	Relevant information
<b>Consultation with members</b>		
In terms of the level of information provided to members, does the application include the recommended use of the 'Council Tax bill' analogy and/or another form of web-based linked information?	Yes	APPLICATION: letters will be sent to the profession along with a note on how the PCF is compiled (see pgs 26-59). LSB ASSESSMENT: Although the format adopted does not follow a 'Council Tax' bill analogy, as suggested in our criteria, it does provide the essential information for each fee paying practitioner.
If yes, when was this information issued to the mandated members paying the practice fees i.e. as the fee note issued or shortly afterward?	Yes	APPLICATION: a final copy of the Budget and PCF proposal will be placed on the BC website and information will be sent out with the fee note. LSB ASSESSMENT: We are content with this process.

**Overall comments**

While the overall approach to consultation was proportionate, the BSB may want to consider ways in which it can increase the response rates to consultations in future years on the PCF amount.

**Evaluation**

The application meets the criteria and evidence for Section 4. Clarity and transparency that must be provided for this section in each PCF application.

Level of concern: **No concern**

## Section 5: Regulatory and Equality Impact Assessment (EIA)

This section of the criteria refers to D11f of the Practising fee Rules 2009

Criteria	Yes or No	Relevant information
Does the application include a regulatory or diversity impact assessment?	Yes	APPLICATION: The Diversity Impact is covered on pages 60-61. There is no change to the 2013/14 proposals in that it will be based upon a year of call across six bands with those who are 1-2 years call paying the least and QCs paying the most. BC continue to offer the fee waiver schemes for low income practitioners to pay a lesser fee. LSB ASSESSMENT: We are content the proposals pose no disproportionate impacts on any particular group.
If no, does the application include a description of how the proposals may potentially impact on various groups (this include the impact of increased fees if appropriate)?	Yes	APPLICATION: see above. LSB ASSESSMENT: see above.
Does the application include a description of how the proposals have been developed in light of the Regulatory Objectives as set out in the Legal Services Act 2007 and Better Regulatory principles?	Yes	APPLICATION: Page 60 gives a brief overview of the impact on the Regulatory Objectives. States that the work is designed to support the regulatory objectives, including improving access to justice and ensuring the highest standards of professional practice and training in the public interest. LSB ASSESSMENT: We are content overall that the proposals have been developed in the light of the RO but it would be helpful in future applications for there to be a fuller description to support the broad assertion.

### Overall comments

Minor suggestion that more information is included on the regulatory objectives and better regulation principles in future years.

### Evaluation

The application meets the criteria and evidence for Section 5: Regulatory and Equality Impact Assessment that must be provided for this section in each PCF application.

### Level of concern:

No concern

**Section 6: Consultation with non-commercial bodies and others**

This section of the criteria refers to D12 of the Practising fee Rules 2009 & Section 51 (7) (a) of the Act

Criteria - non-commercial bodies	Yes or No	Relevant information
Does the application include a description of steps the AR has taken to ensure the impacts of the persons providing non-commercial legal services have been considered when setting the fees?	Yes	APPLICATION: consultation with non-commercial bodies were included as part of the overall consultation process (pg 62). LSB ASSESSMENT: we are content with the process adopted by the BC to consult non-commercial bodies.
Has the AR shared details of the practising fee level with appropriate bodies such as the Law Centres Federation, Citizens Advice and Advice Service Alliance in advance of the submission of the application?		N/A
Have the non-commercial bodies provided any response to the details shared to them by the AR?		APPLICATION: No submissions were received from charitable bodies. BC say very few Barristers work in charitable bodies. LSB ASSESSMENT: Satisfied the LSB has consulted non-commercial bodies. Low response to consultations overall (see section 4).

**Overall comments**

No comments

**Evaluation**

The application meets the criteria and evidence for Section 6: Consultation with non-commercial bodies that must be provided for this section in each PCF application.

Level of concern:

No concern

**Final assessment and decision**

**Summary of LSB assessment - i.e. Approval and/or approval with conditions or rejection**

*The LSB recommends approval of the application with points for improvement noted in the decision letter.*

Criteria - others	Yes or No	Relevant information
Have we considered if we need to consult with anyone else on this application?	Yes	The LSB did not consider it necessary to consult with any other group
If yes, what consultation has taken place and with whom?	Yes	N/A
What was the outcome of this exchange i.e. Do we have any immediate concerns that has the potential to delay the approval of the application?	Yes	N/A

**Overall comments**

No comments

**Evaluation**

The application meets the criteria and evidence for Section 6. Consultation with others (if appropriate) that must be provided for this section in each PCF application.

Level of concern:

No concern