General Council of the Bar

Practising Certificate Fee (PCF) Application and Budget Submission 2020/21

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Contents

I. Summary and Overview

Introduction

For the purpose of this submission the following terms will be used:

a. General Council of the Bar (GCB): the approved regulator and single legal entity

b. The Bar Standards Board (BSB): the delegated regulatory body

c. The Bar Council: the representative body

PCF income supports the GCB's approved regulator's role as set out by LSA 2007 s51 and funds the 'permitted purposes' set out in section 51(4). The whole of the BSB's work as the delegated regulatory body is classed as permitted purposes. The BSB's business plans are developed in line with the BSB Strategic Plan 2019-22: https://www.barstandardsboard.org.uk/uploads/assets/4b599307-da48-4e4e-a8e2ff3bf83934bd/bsbstrategicplan2019-22.pdf.

The Bar Council undertakes many activities that are classed as permitted purpose activities and these can be from funded from PCF income. Great care is taken during the business planning and budgeting process to correctly identify those activities that may be funded through the PCF and those that must be funded from other income such as the voluntary Bar Representation Fee (BRF). The Bar Council annual business plans are developed to meet the strategic objectives set out in the Bar Council's Strategic Plan 2019 -2024: https://www.barcouncil.org.uk/media/743982/bar_council_strategy_document_final.pdf.

A pre-application discussion was held with the LSB on 25 November 2019.

Proposed Practising Certificate Fees 2020/21

1. This year there will be no change in the annual PCF. The income bands which determine the level of fee paid will remain the same as in 2019/20.

Table 1

Band	Income Band	2020/2021 Fees
1	£0 - £30,000	**£100**
2	£30,001 - £60,000	**£246**
3	£60,001- £90,000	**£494**
4	£90,001 - £150,000	**£899**
5	£150,001 - £240,000	**£1,365**
6	£240,001 - £500,000	**£1,850**
7	£500,001 - £1,000,000	**£2,500**
8	£1,000,001 and above	**£3,000**

2. The 2020/21 General Council of the Bar (GCB) PCF funds three activities:

- The s51 permitted purposes operating and capital costs of the Bar Council and BSB;
- The LSB/OLC recharges for 2020/21, and
- Funding for the defined benefit pension scheme deficit recovery plan.

3. PCF collection is forecast to be £15.4M in 2020 and will be allocated according to the table below:

Table 2	2018/19 Actuals	2019/20 Actuals	2020/21 Proposed
Permitted purposes (Bar Council & BSB)	10,950	13,129	13,278
LSB/OLC Levy	758	827	838
Legacy DB Pension Scheme	1,300	1,300	1,300
Total	13,008	15,256	15,416

Key Features of the GCB budget proposition

4. PCF income will be used to fund Bar Council and BSB activities as follows (table 9):

- Bar Council representative permitted purpose costs will be £3.9M (£3.7M in 2019/20 budget). 2020/21 direct costs will increase to £3.3M (up £204k, 6.6% on 2019/20).
- BSB regulatory costs (all permitted purposes) will be £9.6M (£8.4M 2019/20 budget). Other regulatory income is predicted to be £1.1M (£1M in 2019/20 budget). 2020/21 direct costs will increase to £6.3M (up £633k, 13.5%, on 2019/20: explanation at paragraph 45).
- The capital spend of £1.2M, (£250k on equipment and £950k on other capital projects) of which £906k is classed as permitted purposes.

5. Allocations remain consistent with the latest LSB/OLC Levy forecasts (£838k) and the legacy Defined Benefit Pension Scheme (£1,300k) deficit recovery plan approved in 2017.

2020 PCF and collection forecasts

6. We forecast that we will collect and use PCF of £15.4m as outlined in Table 3 below.

Table 3

	2019 Average PCF	**Number of Barristers**	
2019 Forecast	913.77	16,871	15,416,209
		Total Forecast Collection	**£15,416,209**
	Breakdown of Usage	2019/20 Budget	2020/21 Budget
	BC & BSB Operating costs	£11,920,791	£12,372,270
	Capital Costs	£873,000	£906,000
	LSB/OLC Levy	£827,000	£837,939
	Defined Benefit Pension Scheme	£1,300,000	£1,300,000
		£14,920,791	£15,416,209
	Contigency	£0	£0

II. Developing the overall budget and application

A. Setting and Managing Budgets 2020/21

7. The following section describes the steps in the Bar Council budget setting process and includes the independent and parallel process followed by the BSB. These steps have remained consistent with those used in previous years.

Building the high-level budget

8. It is the Chief Executive's responsibility, as Accounting Officer, to ensure that an annual budget is drawn up for the GCB for each financial year. This responsibility is discharged through the Director-General of the BSB and other Directors, supported by the GCB Director of Finance.

9. Annual expenditure is driven by regulatory (BSB) and representative (Bar Council) objectives as articulated in their respective strategic and business plans.

10. The BSB regulatory budget was prepared to align with the strategic aims set out in the BSB's Strategic plan for 2019-22. Budget options were scrutinised by the BSB Planning, Resources and Performance (PRP) Committee and the final bid was approved by the BSB Board.

11. In October 2019, the joint GCB Finance Committee agreed the parameters of an overall high-level budget that met all the regulatory needs and the combined organisational financial provisions required in the medium term.

Next steps in budget setting

12. Detailed cost centre budgets that fit within the agreed high-level financial parameters will be set by relevant managers. These budgets will include contingency plans to mitigate against the risk of shortfalls in PCF and other income. The planning process concludes in February 2020 with scrutiny of detailed budgets by the BSB Director General, Directors and the Chief Executive.

13. In parallel with this, the BSB maintains a continuous review of their own financial needs and will present any revisions to the BSB budget for review by the BSB's own committees and Board.

14. The combined BSB and Bar Council detailed budget package will be brought to the GCB Finance Committee for review in March 2020. The Finance Committee may refer any part of the budget to relevant parties for further consideration.

Budgetary control

15. The budgetary control measures are implemented and monitored by the GCB Director of Finance, scrutinised by the Director General of the BSB, the BSB PRP committee, the Chief Executive, the Bar Council Treasurer, GCB Audit Committee and GCB Finance Committee and other members of the Bar Council and BSB Executive. The GCB Finance Committee exercises overall budgetary control. The Chief Executive, Director-General and Directors have overall responsibility for the control of funds within their budgetary allocations and for the financial control and formal approval of expenditure.

16. Each budget holder has the responsibility for monitoring costs and delivery of non-PCF income, keeping his or her respective line manager fully informed of current spending and, in advance, of any future commitments or proposed activity likely to lead to budget allocations being exceeded. All orders and liability to incur expenditure must be made within approved levels of delegated authority and in accordance with approved policies.

B. PCF Outlook beyond 2019/20

17. Table 4 provides a summary of the financial outlook beyond 2020/21 with indicative income and expenditure forecasts to 2024.

18. The forecast PCF income indicates that an increase in PCF this year is unlikely to be required:

- The level of PCF income is forecast to be at or above the 2019/20 level for the next three years. PCF declarations data will be reviewed after AtP in 2020 and the results used to inform decisions on PCF levels for 2021 onwards.
- Non-PCF income for the Bar Council has been forecast to grow at 2% due to the limitations of having an inherently small number of barristers to draw on.

19. Income from BSB fees and charges has been kept level due to the uncertainty of the income stream in the transition to the Future Bar Training model.

20. An inflation assumption of 2% has been applied to the overheads.

21. We expect the organisation to generate surpluses from 2020/21 that will be used to replenish the depleted reserves.

22. The reserves are forecast to increase over the period. We are planning over the next few years to make modest surpluses in order to replenish reserves which have been used for the property project.

Table 4 - 2020/21 High level cash budget and indicative outyear proposition for GCB
Values in £000's

	2018/19 Actuals	2019/20 Forecast	2020/21 Budget	2021/22 Indicative Fcst	2022/23 Indicative Fcst	2023/24 Indicative Fcst
PCF	12,721	15,256	15,417	15,563	15,721	15,894
BRF	858	955	815	819	823	827
Contribution from Inns	250	250	250	250	250	250
Other Bar Council Income	652	919	927	927	931	936
BSB Fees and Charges	1,565	1,087	1,113	1,124	1,135	1,147
Other Income	557	148	155	160	161	160
Total Income	16,603	18,615	18,677	18,843	19,021	19,214
Operating Spend	11,094	11,393	12,345	12,729	12,801	13,203
Overheads*	3,548	3,075	2,714	2,768	2,824	2,880
Capital & Property Spend	650	2,500	1,200	1,212	1,224	1,236
Other Spend	2,092	2,120	2,138	2,144	2,160	2,178
Total Spend	17,384	19,088	18,396	18,853	19,009	19,497
Cashflow In/(Out)	(781)	(473)	280	(10)	12	(283)
	-4.7%	-2.5%	1.5%	-0.1%	0.1%	-1.5%

*Depreciation not included

Reserves

23. The current reserves policy of the GCB states that reserves should be the higher of 4 months operating costs or £3m. The reserves position at the end of the last financial year was £3m, though the permitted purpose reserve was in deficit. None of the permitted purpose reserves has been used for non-permitted purposes. The increase in the PCF last year has helped partially address this situation. The current forecast position for the permitted purpose reserve is that it will be replenished from its current deficit position. The General reserves figure also includes an additional provision for the DB Pension this contains annual £300k ringfenced monies built up to buy out the scheme in the long term. Legal Reserve is a designated Permitted Purpose reserve created to hold and provide visibility of the costs of BSB defending against legal challenges following the cessation of uneconomic third party insurance cover in 2019.

24. When the restricted reserves are taken into consideration the remaining non restricted reserves appear quite modest. The GCB is currently reviewing its long-term reserves policy so that the GCB can demonstrate to the Bar good stewardship and financial management.

Table 5

GCB Reserves	£000's 2019	£000's 2020	£000's 2021	'£000's 2022	£000's 2023	£000's 2024
Permitted Purposes Reserve	(1,222)	(12)	709	1,056	1,387	1,398
Legal Reserve	252	252	252	252	252	252
General Reserves	4,079	4,214	4,311	4,369	4,393	4,386
Total Reserves	3,109	4,454	5,272	5,677	6,033	6,036
Restricted Reserves						
Pension reserve		300	900	1,800	2,100	2,400
Legal Reserve		252	252	252	252	252
Permitted Purpose Reserves		(12)	709	1,056	1,387	1,398
Non Restricted Reserves		540	1,861	3,108	3,739	4,050
Total Non Restricted Reserves		3,914	3,411	2,569	2,293	1,986

C. Approved BSB Budget

25. The BSB budget has been developed in alignment with the BSB Strategic Plan 2019-2022: (https://www.barstandardsboard.org.uk/uploads/assets/4b599307-da48-4e4e-a8e2ff3bf83934bd/bsbstrategicplan2019-22.pdf).

The total BSB budget is a combination of the direct costs of BSB and indirect costs; including a share of the GCB's joint overhead and support costs. This is shown in Table 6.

Direct Costs

26. The BSB Board approved the 2020/21 budget bid and agreed that it is entirely consistent with the approved strategic and annual business plans for the BSB. The budget proposals were scrutinised in detail by the BSB Planning, Resources and Performance Committee. The subsequent regulatory budgets were presented to the GCB Finance Committee and were approved.

27. The direct costs of the BSB will be £6,327k (£4.6M staffing and £1.7M non-staffing); overall, an increase of £633k (explanation at paragraph 45), on last year's final budget for 2019/20. The main drivers for this have been the fair payment of case presenters (prosecutors) in cases before Disciplinary Tribunals (previously provided pro bono) and the cost of double running the centralised examination system as they transition to the new arrangements under Future Bar Training (FBT).

Table 6 - BSB 2020/21 Cash Budget Summary

Income	2019/20 Budget	2020/21 Budget
PCF	8,407	8,726
Fees and Charges	1,059	1,113
Subtotal Funding	**9,466**	**9,839**
Costs		
Governance, Exec, Support & Communication	1,257	1,356
Strategy and Policy	994	847
Supervision and Authorisations	1,634	1,998
Enforcement	1,589	2,126
Subtotal Spend	**5,474**	**6,327**
Shared Overheads	3,017	3,242
Total Spend	**8,491**	**9,569**
Surplus/(Loss)	**975**	**270**

28. The BSB expects to raise £1.1M (£1M forecast in 2019/20) in non-PCF income from other regulatory fees. This income is used to offset the amount of PCF that needs to be applied to pay for all regulatory expenditure. The level of fees and charges is slightly higher than forecast in 2019/20. Forecasts are conservative due to uncertainty around student numbers starting training courses during a period when the training structure is changing. There is also some uncertainty around the effects of leaving the EU on student and transferring lawyer numbers.

Indirect Costs (Overheads)

29. The high-level plans for the overhead functions shared between Bar Council and BSB have been identified. These plans include the costs of staffing, operations, capital expenditure plans in support of the strategic plans for both organisations.
The Resources Group (which supports Bar Council and BSB) is proposing an increase in operating expenditure on the 2019/20 budget of 4.4%, £195k. The increase is made up of the following:

- Non-staff costs relating to the running of the Defined Benefit Pension Scheme (£100k) and
- other miscellaneous non-staff costs and
- changes in depreciation.

30. The GCB shared Resources Group finance team has estimated the BSB's share of overheads at £3.2M, slightly higher than in 2019/20 (£3M).

BSB Forecasts to 2023/24

31. 2019/20 was the first year of the BSB's new Strategic Plan 2019-22. A revision of the financial and staffing models to reflect the new governance structures, the new approach to regulatory decision making, and the management of incoming information has been included. Detailed forecasts beyond 2020/21 cannot be provided until there has been a review of the take up of Future Bar Training and the impact of the LSB's new Internal Governance Rules has been assessed.

Approved Bar Council budget 2020/21

32. The budgets of GCB fund the policy, representation and services functions as well as the activity of the Approved Regulator, and a share of the overheads and support costs for the business. These budgets are set in conjunction with the business planning process and align with the Bar Council Strategic Plan 2019-24: (https://www.barcouncil.org.uk/media/743982/bar_council_strategy_document_final.pdf).

33. The direct cost of the Bar Council will be £4.1M (Table 10) (£3.9M in 2019/20).

34. Total income for the Bar Council will increase to £5.8M (£5.6M 2019/20). The Services function will raise £1.7M (£1.7M in 2019/20 budget) from the BRF, subscriptions and other services; the surpluses from these activities are used both to reduce the PCF burden and to enable the Bar Council to undertake activities outside

35. the permitted purposes. A further £0.25M is received from third parties for representation activity.
    The Bar Council is proposing an increase in operating costs of 2.4% on its final budget position. Compared to the last LSB submitted position this represents a 4.9% increase. The increase consists of:
    - An annual budgeted 3.5% increase in salary costs (£80k) (an inflationary and performance related pay uplift)
    - A 1% increase in non-staff costs:£16k, (increase in travel and events)
    - Cost adjustment for pensions uplift.
    - Increase in staff training costs: £18k.
    - Non-staff costs relating to Training and Events which generate additional income.

36. The 2020/21 budget proposals for the Bar Council are shown in Table 7.

Table 7 - Bar Council 2020/21 Cash Budget Summary

Income	2019/20 Budget	2020/21 Budget
PCF	3,513	3,646
Representation Income	250	250
Services to the Profession	1,814	1,897
Subtotal Funding	**5,577**	**5,793**
Costs		
Representation Direct Costs	3,069	3,273
Shared Overheads	1,073	1,065
Total Representation	**4,142**	**4,338**
Costs of Services	839	828
Shared Overheads	347	324
Total Services	**1,186**	**1,152**
Direct Bar Council Costs	**3,908**	**4,101**
Shared Overheads	**1,420**	**1,389**
Surplus/(Loss)	**249**	**303**

Services to the profession (income) includes income from Bar Representation Fee (BRF) and income from training and events provided to the profession.

Bar Council Forecasts to 2023/24

37. The GCB is currently in the process of developing its 5-year financial plans. However, certain key features will likely be carried over from existing financial strategy and have been included in the high-level forecasts provided on page 8.

- Non-PCF income is expected to grow slowly (1%) to provide alternative income and to mitigate against future risks to the PCF.

Application of PCF to permitted purposes

38. When preparing the Bar Council budget, we have apportioned the total costs of the various functions between permitted purposes and other expenditure according to descriptions summarised in Table 11. The value of this apportionment is shown in Table 8.

Table 8 - Analysis of Representative costs between Permitted and Other Purposes

	2020/21 Budget						
	Direct Costs £000	Support Costs £000	Contribution	**Total Costs** £000	Max Permitted Purposes ("P.P.")	Permitted Purposes Activities £000	Other Purposes £000
Analysis of Representative Permitted Purposes Costs							
Approved Regulator: Corp.	1,334	470		1,804	90%	1,624	180
Donations	250	-		250	100%	250	-
Approved Regulator Subtotal	**1,584**	**470**	**-**	**2,054**		**1,874**	**180**
Representation:							
Equality, Diversity & CSR	159	56		215	90%	193	22
Policy Directorate	435	153		588	100%	588	-
EU Law	132	47		179	100%	179	-
International	337	119		456	80%	365	91
Law Reform & Regulatory & Ethics	128	45		173	100%	173	-
Remuneration & Legal Practice	179	63		242	95%	230	12
Communications	319	112		431	75%	323	108
Subtotal Representation	**1,689**	**595**	**-**	**2,284**		**2,051**	**233**
Total	**3,273**	**1,065**		**4,338**		**3,925**	**413**
2019/20 Budget	*3,069*	*1,073*		*4,142*		*3,748*	*394*

Support Costs represents the share of Resources Group (Overhead costs) detailed in table 9.

III. Consultation on PCF

Consultation Process

39. The joint Finance Committee (3 December 2019) approved the proposal for no increase in the PCF fee level and the draft budget proposal for 2020/21, including the consultation messaging to barristers. The proposal to make no change to the PCF fee level and the proposed budget for 2020/21 was put before the profession between 4 December and 18 December 2019.

40. We followed a similar approach in this consultation to that used in previous years:

- The BSB sent out its Regulatory Update on 4 December inviting comments from registered and unregistered barristers. The following statistics relate to the December Regulatory Update:
- 17,586 emails were sent out
- 6,017 emails were confirmed as being opened
- 48 barristers clicked on the PCF consultation link (35 unique users)

Additionally the consultation document has been available on the website.

- 94 unique visitors clicked on the PCF fee consultation from the BSB website: https://www.barstandardsboard.org.uk/news-publications/consultations.html
- The BSB Tweeted the consultation link to its 22,675 followers on 6, 12 and 17 December.

41. The Bar Council separately sent out the BarTalk update (12 December). Statistics relating to December BarTalk:
    - Email sent to 17,457 recipients (including the whole of the practising Bar.
    - 5,000 recipients opened the email
    - 9 recipients clicked on the link
    - 37 unique visitors clicked on the consultation document direct from the Bar Council website: https://www.barcouncil.org.uk/policy-representation/consultations.html

42. The proposed PCF fee level and budget for 2020/21 were presented to and discussed with the General Management Committee (GMC) of the Bar Council on 16 December. The 21 elected members of the GMC (representing all barristers, including Circuit Leaders, SBA Chairs and Committee Chairs) approved the proposals in their meeting unanimously. The minutes of this meeting will be available on the Bar Council website after approval at the next meeting.
    - The PCF fee level and budget proposal for 2020/21 was widely disseminated to the legal press; Law Society Gazette, Legal Futures, The Times, Legal Business and SBA newsletters. The New Law Journal (circulation 5,000) ran a short piece on the PCF

fee consultation and encouraged readers to respond with their views. Legal Futures also ran the story.

Consultation Responses

43. There have been no responses to the consultation.

IV. Permitted Purposes

Allocation of PCF to Permitted Purposes

44. Table 9 below shows the allocation of PCF to regulatory and representative permitted purpose activities.

    The split of PCF is based on the forecast permitted purpose costs as shown in Table 9(s51 report) below. The proportions have remained steady over the years the increase in the absolute amount of PCF is due to the natural growth from changes in the number of barristers and movement between the income bands.

45. All BSB activity is for permitted purposes. In 2020/21, the level of PCF income applied to BSB activities rises to £8.7M (up £318k, 3.8%, on 2019/20).

46. In 2020/21, the level of PCF income applied to Bar Council representative permitted purpose activities rises to £3.6M (up £133k, 3.8%, on 2019/20). Further details of the functional split of representative permitted purposes are shown on pages 19 to 22.

47. Costs of representation will be £4.3M (up £196k, 4.7% on 2019/20 budget). The element of this that is permitted purposes is £3.9M (up £176k, 4.7%, on 2019/20). The application of non-PCF income to permitted purposes will be £590k (up £117k, 24.7% on 2019/20).

Table 9 - s51 Report on 2020/21 - Allocation of PCF to Permitted Purposes

	Regulation (BSB)	Representation		Services	Revenue Total	Capital Spend	Capital Spend	Total Funding & Spend
Total costs breakdown by source								
Direct Costs	6,327	3,273		828	10,428			10,428
Share of Resources Group	3,242	1,065		324	4,632			4,632
Project Spend	0	0			0	1,075	125	1,200
Total Spend - Funding Required	**9,569**	**4,338**		**1,152**	**15,059**	**1,075**	**125**	**16,259**
Analysed between Type:	Regulatory Permitted Purposes	Other Permitted Purposes	Other Purposes			Other Permitted Purposes	Other Purposes	
Permitted Purposes	**9,569**	**3,925**			**13,494**	**1,075**		**14,569**
Not Permitted Purposes			**413**	**1,152**	**1,565**		**125**	**1,690**
	100%	90%	10%		**15,059**			**16,259**
Funded by:								
PCF	8,726	3,646	0	0	**12,372**	906	0	**13,278**
Direct Income								
Regulatory Fees & Charges	1,113				**1,113**			**1,113**
Services To Members				1,742	**1,742**			**1,742**
Other Contributions		250			**250**			**250**
Other Administrative Income		(5)	160		**155**			**155**
Subtotal Direct Income	1,113	245	160	1,742	**3,260**	0	0	**3,260**
Cross Subsidy from Services to Members	0	295	295	(590)	**0**	0	0	**0**
Total Funding	**9,839**	**4,187**	**455**	**1,152**	**15,633**	**906**	**0**	**16,539**
Cashflow In/(Out)	**270**	**262**	**42**	**(0)**	**574**	**(169)**	**(125)**	**280**
Analysed between source:								
Permitted Purposes	270	262			**532**	(169)		**364**
Not Permitted Purposes			42	(0)	**42**		(125)	**(83)**

PCF Application: 2020/21 operating budgets for Bar Council and BSB

48. The operating budget proposals for the organisation as a whole are summarised below together with the forecast beyond 2020/21.

Budget Summary

49. The budgets in the previous periods showed overall deficits with the shortfall being taken from reserves. This led to a weakening of the financial health of the organisation. The GCB is committed to producing balanced budgets to promote fiscal responsibility and to live within its means. This year there is a forecast modest surplus which if realised will be used to begin strengthening the financial position.

Expenditure

50. GCB plans for total expenditure of £16.3M in 2020/21, £438k higher than the 2019/20 budget (Table 10). This will be funded by a combination of PCF and non-PCF income. We aim to deliver a modest surplus budget (total income / costs).

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

   - BSB direct costs will increase by £633k on last year's final budget. The increases are consistent with the BSB strategic plan and relate to:
     - Increased staff costs, taking account of the 3.5% inflationary increase and the strategic transformation of departments resulting in changes to roles and increased levels of responsibility.
     - A long-standing commitment to remunerate prosecutors' work that was previously undertaken pro bono. The strategic decision to make this change was made in previous years. The BSB began paying prosecutors in 2019-20 but the full financial effect of the decision will impact from 2020/21 onwards. The payments will be made at Treasury Solicitor rates and will be paid to barristers following an open procurement process. This initiative will help drive fairness and diversity in the profession. The net effect is expected to be £231k pa as there will be an offset with costs recovered..
     - A consequence of the FBT programme is that the BSB must manage the transition from the old BPTC system to the new Bar Training routes.. Additional costs (£264k) are incurred due to the need to run duplicate examination functions during the transition and the associated non-staff costs (question writers, examiners etc). These costs are not a long-term recurrent addition to our cost-base. These additional costs will be greatest in the next financial year and should then start to subside in the 2021/22 financial year when there will be lower numbers of students sitting the old BPTC exams (although the irreducible minimum cost of setting an examination remains). The BSB will then revert to a new business as usual budget, which will be

agreed once the format and costs for all the new examinations have been considered. Over time and in steady state the examination system is intended to be predominantly self-funding through fees.

- The budget includes a new and non-recurrent provision of £50K to support the review of the Handbook. This has been informed by discussions with external solicitors and is to provide for legal support in drafting and review of new rules.
- The remainder of the total difference from last year's submission (total difference £853k) is due to: change of accounting treatment of Legal Defence costs £100k; carry over due to delayed project spend (£40k) and an adjustment to the staff budget agreed in previous years (£80k)

- Bar Council direct costs will increase by £193k and are consistent with the Bar Council's strategic plan.
- Overhead costs for GCB will be £4,632k (net of depreciation).

Table 10 - 2020/21 Cash - Income & Expenditure Budget Proposals

	Bar Council	BSB	Total Revenue Income / Expenditue	Capital Spend	Total Cash Income / Expenditue
PCF Income	3,646	8,726	**12,373**	906	13,279
Non-PCF Income	2,147	1,113	**3,260**	0	3,260
Total Income	**5,793**	**9,839**	**15,633**	**906**	**16,539**
Direct Costs	4,101	6,327	**10,428**	0	10,428
Overheads	1,389	3,242	**4,632**	1,200	5,832
Total	**5,490**	**9,569**	**15,059**	**1,200**	**16,259**
Cash In/(Out)	**303**	**270**	**574**	**(294)**	**280**

Allocation of PCF to non-regulatory Permitted Purposes activities

Introduction

52. We have reviewed the representative activities of the Bar Council to determine the extent to which these fall within the Permitted Purposes described by section 51 of the LSA 07 and so may be funded by PCF. The rationale set out here has been considered in the budget setting process.

Outcomes

53. The Bar Council representative function supports the Permitted Purposes including s51 (4) a), c), d), e) and f). As well as work delivered by Bar Council staff, barrister led committees and working groups in specialist areas are supported by our staff working

through five core teams. These activities are grouped by one of five themes and described on pages 19-22.

54. A proportion of the staffing resource within the representation teams supports non-Permitted Purposes activity and is funded independently. Table 11 shows the proportion of team resources applied to each Permitted Purpose and Table 8 shows the value of the relevant budget proposals analysed between Permitted and other purposes. Direct costs for activities of the services function that are completely outside of Permitted Purposes are budgeted for separately and analysis of this is outside the scope of this paper.

55. The Bar Council has again chosen to restrict the amount of PCF that we are prepared to seek for representation purposes and so has funded some Permitted Purposes activity, that otherwise may be funded by PCF, by other means. These means include surpluses from commercial activity and the Bar Representation Fee. The value of these is shown as other income or as a cross subsidy in Table 9.

Description of Representative Activity by Function

Equality, Diversity, Inclusion, Training and Social Mobility

56. This work of the Diversity & Inclusion and Corporate Social Responsibility team covers:

- Matters to do with the 'training' and 'education' of barristers and those wishing to become barristers (section 51(4)(a));
- Promoting the objectives of the Equality Act 2010, to which the Bar Council as an approved regulator is subject, including:

  - 'advance equality of opportunity between people from different groups' (section 51(4)(a)(ii));
  - 'eliminate unlawful discrimination and other conduct prohibited by the Equality Act'; and

- Promoting equality, diversity and inclusion (including social mobility). Specific programmes cover (i) access, (ii) retention and (iii) progression. Access programmes include but are not limited to Bar Placement Schemes (with social mobility charity partners); e-mentoring, careers outreach, pupillage specific projects and supporting barristers' work with schools and universities, for example Young Citizens' Bar Mock Trials.
- The team is also responsible for leading on all work in relation to the Young Bar and the Employed Bar: a broad remit.

Outside of permitted purposes:

57. Up to 10% of the time of the team is allocated towards supporting Pro Bono activity, Wellbeing, Silk and Judicial Mentoring, an annual Young Bar social event, the biennial Employed Bar Awards and other small projects.

European Activities (Brussels)

58. The Bar Council maintains effective two-way communication between the institutions of the European Union and the Bar Council. This work is led by the Bar Council's Brussels Consultant and EU Law Committee. All activities are within Permitted Purposes but the focus of our activity continues to differ from past years owing to the result of the 2016 referendum on EU membership. 60% of our Brussels work enables the Bar Council to:

- Capture the output of the EU institutions which have a bearing on the reform and development of the law in England and Wales, the administration of justice in England and Wales and the consumer as well as the public interest;
- Draw attention to EU-wide consultation exercises and related initiatives; and
- Communicate the views of the Bar of England and Wales on a wide range of legal matters affecting the development of EU law and justice including matters of family law, criminal law, administration of estates, contract law and intellectual property.

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

International

59. The International Team exists to:

- Advise the Bar Council on international developments of relevance to the Bar, to promote the interests of the Bar to international organisations and other legal professions and to lead the support of the international rule of law. It also acts to maximise international business opportunities for the Bar.
- Provide policy expertise and intelligence to the organisation across the range of international interests of the Bar including trade, rule of law and international issues.
- Ensure that the Bar and the Bar Council's positions are effectively put forward in international organisations (e.g. the Council of Bars and Law Societies of Europe and the International Bar Association).
- Support the development of the international rule of law by interesting and engaging the profession in relevant activities (e.g. through lectures and other educational means) and by providing Bar expertise to Bar associations and other lawyers' organisations overseas (e.g. by taking part in capacity building and other training projects abroad, whether alone or with partners like the British Council or the Royal Commonwealth Society).

- One member of the International team currently spends a significant amount of time working on Brexit-related matters which also come within section 51(4)(c) as described above and 51(4)(f), for example supporting the government's Professional Business Services Council.

Outside of permitted purposes:

60. On occasion, the International Team's activity has an ancillary purpose to create opportunities for business development including initiating international business development projects, overseas marketing missions to changing jurisdictions including but not limited to Mexico, Kazakhstan and Cyprus, organisation of or attending business conferences, promotional publications or networking events with incoming delegations of foreign lawyers. These activities generate fees which pay for the incremental costs arising and may also subsidise the Permitted Purposes activity. Overall, up to 20% of the resources of the International function are funded by other sources.

Law Reform, Regulatory and Ethics Issues

61. The Regulatory Issues, Law Reform and Ethics team is responsible for engaging with the approved regulators on issues that affect the profession. The main areas of work include the following, all of which fall within the Permitted Purposes:

    - Education and provision of leadership to the profession on key regulatory changes. These include communication with the Legal Services Board and Bar Standards Board, the monitoring of changes to the regulatory environment for barristers and chambers and educational work on practical issues on establishing entities and Alternative Business Structures.
    - Practical Advice and support on practice management, including drafting practice management guidance for the Bar and arranging practice management seminars on novel subjects for the Bar.
    - Monitor and respond to consultations that impact on the administration of justice. This includes coordination of Law Reform Committee (LRC) led responses to consultations on a broad range of legislative matters, coordination of law reform related working groups which influence legislation, contributions of the LRC to the Law Commission's programmes of law reform, raising awareness of current law reform issues through the annual law reform lecture delivered to some 200 law students, barristers and judges and fostering an interest in law reform amongst law students and aspiring barristers though LRC's annual law reform essay competition.
    - This team also leads on policy related to the Bar's ethical standards and obligations, which includes management and provision of the Ethical Enquiries Service.

Remuneration and Legal Practice

62. The Remuneration and Legal Practice team leads on policy relating to remuneration and legal practice, including issues focused on access to justice and the administration of justice. This includes, for example HMCTS' vast court reform programme.

63. This team also works to further the interests of all barristers to ensure that they are paid fairly for the work that they do. It also works to help enable access to justice, through legal aid or other funding arrangements, for example, investigating the viability and case for establishing a Contingent Legal Aid Fund, engagement with the Ministry of Justice on the Advocates' Graduated Fee Scheme (AGFS) and the next steps for promoting access to civil and family justice, be it through legal aid or other means.

Outside of permitted purposes:

64. Some limited activities are considered as falling outside of Permitted Purposes, including work related to Alternative Dispute Resolution.

Research function

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

Communications Function

66. The work of the Communications function includes:

- Activities on behalf of the Approved Regulator function and complementary to the BSB regulatory communications function.
- Support for the public and consumer interest including the promotion of standards and good practice, publicising practical guidance, promoting entry to the Bar, advocating greater social responsibility by the Bar (working in conjunction with the Inns of Court and government in relation to the 'social mobility agenda'), publicising training events and pro bono work and supporting the promotion of events such as the Schools Mock Trial competition.

Outside of Permitted Purposes:

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

Corporate Function

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

Application of PCF to permitted purposes

69. When preparing the Bar Council budget, we have apportioned the total costs of the various functions between permitted and other purposes according to the descriptions summarised in Table 11. The value of this apportionment is shown in Table 8 which is repeated below.

Table 11 – Proportion of representational activity that is for Permitted Purposes

Representative Function Area	Regulation, accreditation, education & training of authorised persons	Maintaining and Raising of professional standards	Practical Advice and support on practice management	Law Reform and related legislative process	Promoting the protection by law of Human Rights and fundamental freedoms	Promotion of relations between AR and national, international bodies, governments or legal reps	**Permitted Purposes Subtotal**	Not in scope of pp
	51(4)(a)	51(4)(i)	51(4)(a)(ii)	51(4)(c)	51(4)(e)	51(4)(f)	(Max 100%)	Other
Equality, Diversity & CSR	30%	30%	30%				**90%**	10%
EU Law				40%		60%	**100%**	
International						80%	**80%**	20%
Law Reform, Regulatory & Ethics	25%	20%	15%	25%	10%	5%	**100%**	
Remuneration & Legal Practice	15%	15%	15%	45%		5%	**95%**	5%
Communications	15%			30%	15%	15%	**75%**	25%
Corporate	15%	15%	15%	15%	15%	15%	**90%**	10%

Table 8 - Analysis of Representative costs between Permitted and Other Purposes

	2020/21 Budget				Max		
	Direct Costs	Support Costs	Contribution	**Total Costs**	Permitted Purposes ("P.P.")	Permitted Purposes Activities	Other Purposes
	£000	**£000**		**£000**		**£000**	**£000**
<u>**Analysis of Representative Permitted Purposes Costs**</u>							
Approved Regulator: Corp.	1,334	470		1,804	90%	1,624	180
Donations	250	-		250	100%	250	-
Approved Regulator Subtotal	**1,584**	**470**	**-**	**2,054**		**1,874**	**180**
Representation:							
Equality, Diversity & CSR	159	56		215	90%	193	22
Policy Directorate	435	153		588	100%	588	-
EU Law	132	47		179	100%	179	-
International	337	119		456	80%	365	91
Law Reform & Regulatory & Ethics	128	45		173	100%	173	-
Remuneration & Legal Practice	179	63		242	95%	230	12
Communications	319	112		431	75%	323	108
Subtotal Representation	**1,689**	**595**	**-**	**2,284**		**2,051**	**233**
Total	**3,273**	**1,065**		**4,338**		**3,925**	**413**
2019/20 Budget	*3,069*	*1,073*		*4,142*		*3,748*	*394*

V. Transparency of PCF information to fee-paying members

Introduction

70. The following sections 70-80 have been shared directly with barristers as part of its communication and engagement. The material is available on the BSB website under Consultations https://www.barstandardsboard.org.uk/news-publications/consultations.html.
71. The General Council of the Bar (GCB) does not intend to increase PCF for the budget year 2020/2021 and will submit a proposal for no PCF increase to the Legal Services Board (LSB) for approval.

Summary

72. We plan to set an operating budget that uses the predicted level of PCF income to fund the GCB's operating costs.

73. PCF bands and fees will remain:

Band	Income Band	2020/2021 Fees
1	£0 - £30,000	**£100**
2	£30,001 - £60,000	**£246**
3	£60,001- £90,000	**£494**
4	£90,001 - £150,000	**£899**
5	£150,001 - £240,000	**£1,365**
6	£240,001 - £500,000	**£1,850**
7	£500,001 - £1,000,000	**£2,500**
8	£1,000,001 and above	**£3,000**

Expenditure

74. The proposed budgeted expenditure for 2020/21 will be as follows:

General Council of the Bar

Operating Expenditure	**19/20**	**20/21**		**Change**	**% Change**
	£000's	£000's		£000's	
Bar Council	4,004	4,100		96	2%
Resources Group	5,231	5,303		72	1%
Bar Standards Board	5,693	6,327		634	11%
	14,928	15,730		802	5%

75. The proposed 2020/21 budget can accommodate the rise in regulatory costs without raising the PCF fee level due to the imminent completion of the long-term accommodation and refurbishment programme in the current financial year. This has enabled the release of budget allocation to support the regulatory programme. The accommodation programme will reduce the space occupied by the GCB and drive efficiency savings.

76. Expenditure by the Bar Council and the Resources Group will increase 2% and 1% respectively compared to last year's budget. This covers inflationary and performance related pay increases and a small increase in non-staff costs.

77. The Bar Standards Board's (BSB) budget will increase by 11 % compared to last year's budget. This reflects the implementation of long-term strategic initiatives by the Bar Standards Board covering:
    a. Future Bar Training dual running of exam systems for a period of two years (non-recurring) £264k annually. The double running of the exams systems for 2 years will help to ensure that the new 2-part training structure can be implemented as quickly and as smoothly as possible.
    b. A long-standing commitment to remunerate prosecutors' work that was previously undertaken pro bono. The strategic decision to make this change was made in previous years. The BSB began paying prosecutors in 2019-20 but the full effect of the decision will impact from 2020/21 onwards. The payments will be made at Treasury Solicitor rates and will be paid to

barristers. This initiative will drive help drive fairness and diversity in the profession. The net effect is expected to be £231k.

c. Updating of the handbook, £50k.
d. The current budget has a reduction in headcount of 5 and the BSB is maintaining that level of resource into the 2020/21 budget year. The increase to salaries reflects increased responsibilities and upskilling of the workforce, approximately £85k.

Non-PCF income

General Council of the Bar

Non PCF Income	19/20	20/21	Change	% Change
	£000's	£000's	£000's	
Bar Council	2,067	1,987	80	4%
Resources Group	155	160	5	3%
Bar Standards Board	1,059	1,113	54	5%
	3,281	3,260	21	1%

78. We have anticipated a decrease in non-PCF income. The Bar Standards Board is expecting a modest increase in its regulatory income.

GCB Budget 2020/21

79. The consolidated position of the GCB is shown below:

General Council of the Bar Budget 2020-2021	Total Budget 2019-2020	Total Budget 2020-2021	Change	% Change
	£000's	£000's	£000's	
Income				
PCF	14,920	15,415	495	3%
Other Income	3,281	3,260	(21)	0.6%
Total Income	18,201	18,675	474	3%
Expenditure				
Operating Expenditure	14,929	15,730	(801)	5%
Sub-Total Operational Surplus / (loss)	3,272	2,945	(327)	
Non Operational Expenditure				
LSB / OLC levy	827	838		
DB Pension fee	1,300	1,300		
Total Operational & Non Operational Surplus / (loss)	1,145	807	(338)	

80. PCF income is expected to rise to £15.4m in 2020. The increase in PCF receipts is due to the movement of barristers between the PCF fee bands. PCF predicted income is based on the GCB forecasting model.

PCF Application: LSB and OLC recharges 2020/21

81. The forecast charges for 2020/21are £838k, £11k higher than in 2019/20. No changes to PCF fee levels are required to meet this target.

PCF Application: Defined Benefit Pension Scheme (DB scheme)

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

83. No changes to PCF arrangements in respect of the DB scheme are to be made for 2020/21. The DB scheme recovery plan is formally reviewed every three years with the latest review being in September 2018. The GCB and the Pension Trustees are in the process of agreeing the valuation and contributions schedule. This will likely lead to an extended payment plan at the current level of funding.

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

VI. Regulatory and Equality Impact assessment

Equalities Impact Assessment

We aim to follow better regulation principles when setting the PCF:

- Our decision-making is open and transparent
- Stakeholders can contribute throughout the policy making process
- Actions are based on evidence and understanding of the impacts
- Regulatory burdens on the profession are kept to a minimum

85. The impact of the proposed PCF level on protected characteristics and equality have been considered. An Equality Impact Assessment has been conducted by the Head of Policy E&D at the Bar Council. The aim of the EIA is to ensure that the GCB approach to the Practicing Certificate Fee (PCF) does not have a disproportionate / adverse impact on those with protected characteristics.

86. The PCF is set according to income band. This ensures that those who are generating lower receipts (have lower income) pay a lower rate for their PCF. Further steps have been taken to address any perceived disadvantage of:
    - Those returning to practice after taking parental leave. The PCF is provided at no cost during a period of parental leave and at the lowest level (Band 1) for those returning to practice irrespective of the PCF Band prior to parental leave. This is intended to encourage return to practice by reducing the costs of returning to practice.
    - Those with a debilitating illness. Any barrister who is forced to give up practice due to a period of ill-health is now able to secure a reimbursement for the balance period of their practising certificate.

87. There is an element of economic fairness in the PCF bands in that it recognises the wide gap in earnings across the Bar and of the pressures faced by those at the publicly-funded Bar, compared to those on the higher bands.

VII. Other supporting information

Financial Risk & Mitigation Steps

88. The main budgetary risks are:

a. PCF collection levels
b. Uncertainty of non-PCF income
c. Effect of political uncertainty (election) on inflation, tax rates and costs.

Key risks on PCF collection levels

89. PCF collections levels cannot be forecast precisely: there is uncertainty in both the number of barristers that will seek renewal and in the income band that they will fall into, which affects the fees paid.

90. The GCB is unable to predict precisely the number of barristers seeking certificates as this forecast is affected by the personal choices barristers make at that time, for instance, to retire, seek judicial appointment, suspend their practice or to return to it after absence. Based on historic trends, the number of practising certificates expected to be issued has been forecast at 16,871 (16,411 renewed in 2019).

91. The lack of access to reliable predictive information from BMIF, has meant that the Bar Council has had to analyse its own database of historic information built up over the years to build a predictive model that can be used to forecast the anticipated PCF income.

92. We have used the Authorisation to Practise (AtP) data (from the shared BSB / Bar Council database) for the past five years to get a base level for the number of subscriptions, new starters and leavers, and turn these into heatmaps showing the movement over the fee bands from one year to the next. This has been developed for both employed and self-employed barristers to build up a complete picture. The data from 2015/16 to 2019/20 give us four years' worth of movements.

93. These heatmaps show that over the four years there is a high level of consistency in the movement of barristers in each of the employed and self-employed cohorts over the fee bands.

94. Other sources of income present financial risks:

- Non-PCF regulatory fee income for waivers and other discrete applications is demand led and difficult to predict. BSB have mitigated for this by working to the low side of the range of estimates.
- The uncertainty of commercial income (arising mainly in Services activity) and particularly the voluntary BRF. This is mitigated by initiatives to improve income from training, events and support to Chambers as well as new commercial partners.

95. Unforeseen costs may arise from external sources including government activity or legal action.

Financial risk mitigation

96. GCB maintains financial reserves to fund working capital, investments and to provide a financial damper to smooth or cushion adverse financial issues. GCB operates a reserves policy to maintain sufficient cash reserves for these purposes.

97. The GCB distinguishes between permitted purposes reserves (arising from permitted purposes activities) and other general reserves and reports those reserves in the annual audited financial accounts: the permitted purposes reserves arise from the surplus or loss on any BSB regulatory activity (whether funded by PCF or not) and representative permitted purposes activity as included in the s51 report included in our accounts.

98. Movements in and between reserves are reported in the primary statements of the financial accounts, are audited independently and are subject to review by Finance Committee and Audit Committee for financial and process integrity respectively. The approved accounts are available on the Bar Council website.

99. Shortfalls in funding or unplanned costs may, at Bar Council's discretion, be met by:

- Designated PCF reserves (for PCF permitted purposes only);
- General reserves;
- Cost reductions targeted at non-Permitted Purposes activities (enabling more commercially driven surplus to be put towards permitted purposes activities);
- Cost reductions applied to Permitted Purposes activity (including its support costs) to reduce the need for PCF funding as agreed with BSB; and
- Other options will be considered to ensure best use of available cash resources during the year.

VIII. Contact details

Next steps and communication with the Bar

100. The annual AtP renewal period for practising certificates opens in February and closes at the end of March. Barristers needing a practising certificate are required to apply for one and pay the PCF. The Bar Council and BSB have a joint plan in place to communicate with Barristers, chambers and employer administrators to ensure that they have the information they need about the AtP process.

101. The communication plan is underway from November and will continue through post, email and social media channels up to and beyond the opening of the AtP process in February 2020.

Richard Cullen
Director of Finance
General Council of the Bar
December 2019

Appendix: Previous years comparisons

Table 10 - Analysis of Representative costs between Permitted and Other Purposes

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

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

	Regulation (BSB)	Representation		Services	Revenue Total	Capital Spend & Property Project	Capital Spend & Property Project	Total Funding & Spend
Total costs breakdown by source								
Direct Costs	5,474	3,069		839	9,382			9,382
Share of Resources Group	3,017	1,073		347	4,437			4,437
Project Spend	0	0			0	1,775	227	2,002
Total Spend - Funding Required	**8,491**	**4,142**		**1,186**	**13,819**	**1,775**	**227**	**15,821**
Analysed between Type:	Regulatory Permitted Purposes	Other Permitted Purposes	Other Purposes			Other Permitted Purposes	Other Purposes	
Permitted Purposes	**8,491**	**3,748**			**12,240**	**1,775**		**14,015**
Not Permitted Purposes			**394**	**1,186**	**1,580**		**227**	**1,807**
	100%	90%	10%		**13,819**			**15,821**
Funded by:								
PCF	8,407	3,513	0	0	**11,920**	873	0	**12,793**
Direct Income								
Regulatory Fees & Charges	1,059				**1,059**			**1,059**
Services To Members				1,659	**1,659**			**1,659**
Other Contributions		250			**250**			**250**
Other Administrative Income		(0)	155		**155**			**155**
Subtotal Direct Income	1,059	250	155	1,659	**3,123**	0	0	**3,123**
Cross Subsidy from Services to Members	0	238	235	(473)	**0**	0	0	**0**
Total Funding	**9,466**	**4,001**	**390**	**1,186**	**15,043**	**873**	**0**	**15,916**
Cashflow In/(Out)	**975**	**252**	**(4)**	**(0)**	**1,224**	**(902)**	**(227)**	**95**
Analysed between source:								
Permitted Purposes	975	252			**1,227**	(902)		**325**
Not Permitted Purposes			(4)	(0)	**(4)**	0	(227)	**(231)**