



CHIEF EXECUTIVE

BY EMAIL: Matthew.Hill@legalservicesboard.org.uk

Mr Matthew Hill
CEO, Legal Services Board

9 February 2022

Dear Matthew

PCF SUBMISSION V.2

In response to questions from your team dated 31 January 2022, I attach a second version of the submission which addresses those questions. I would highlight the addition of Annexes 3, 4 and 5 by the BSB to explain their planned programme of work in more detail. Commentary on the consultation has been amended at paragraph 110 to reflect the new Annexes.

Even though the new Annexes add detail, which we had sought previously without success, they do not in our view, give justification for the increases in staff and therefore do not satisfy the 'reasonable' test.

Everything we said in my covering letter of 24 January 2022 (as the Approved Regulator and representative body) and in our response to the BSB consultation on their new 3-year strategy¹ stands. The profession has given a fulsome and robust response to the PCF consultation, which has clearly been considered but rejected by the BSB, without explanation.

To summarise our concerns:

- The BSB's large budget increases have not been sufficiently justified and are therefore not 'reasonable'.
- We think the BSB's strategic plan is lacking in detail and transparency to justify its plans for considerable staff recruitment. They set a detailed budget before finalising their strategy and have yet to conduct business planning. These processes are completely the wrong way around.

¹ <https://www.barcouncil.org.uk/uploads/assets/3c089cec-83ca-41bc-b9c698da835f5bda/Bar-Council-response-to-BSB-consultation-Our-proposed-strategy-for-the-next-three-years-2022-23-to-2025-26.pdf>

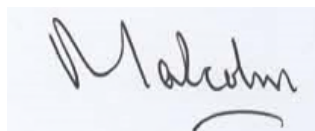
THE BAR COUNCIL

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- We are most concerned about the BSB's failure to meet most of its KPIs over the course of the last year and think it needs to focus efforts on this core regulatory activity instead of embarking on new projects.
- The BSB needs to be mindful of its role in setting and enforcing minimum standards and the Bar Council's role in working with the profession to promote best practice. This applies particularly to equality and diversity.
- We are concerned about the increasing regulatory burden on chambers. Identifying best practice in chambers and providing training is best done by the representative body.
- We are not convinced that the BSB is best placed to regulate technology or piloting a project on unbundling.
- Whilst the BSB might wish to consider becoming a separate corporate body, we do not agree with the timing or necessity of such work given the considerable challenges to the BSB's core duties; nor do we agree with the plan to spend £100k exploring its feasibility.
- The appropriateness of taking regulatory action against unregistered barristers, when their conduct has nothing at all to do with the provision of legal services, seems to us to be a questionable use of resources and a possible place for savings to be made, releasing regulatory resources to more pressing matters.

The GCB, as the Approved Regulator, is not assured that the resources and budget required by the BSB are 'reasonable', under the definition in the Practising Fee Rules. As the representative body, the Bar Council shares and supports the views of the profession and calls upon the BSB to respond transparently and innovatively to the concerns voiced. I ask that, in assessing the Practising Fee submission, the LSB delves more deeply into the regulatory body's plans than the Bar Council, wearing either hat, is now allowed to do under the IGRs, recommending downward revisions to the BSB's budget where reasonable.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Malcolm', with a stylized flourish underneath.

Malcolm Cree CBE