



181106/PCF

CONSULTATION ON THE 2019 PRACTISING CERTIFICATE FEE (PCF) & BAR COUNCIL AND BAR STANDARDS BOARD (BSB) BUDGET FOR FINANCIAL YEAR 2019/20

Issue

1. This paper seeks views from the profession on proposals for Practising Certificate Fees (PCF) in 2019 in the context of the proposed 2019/20 budget for the Bar Council and the BSB.

Summary

2. The Bar Council on 3 November 2018 approved budget proposals for 2019/20 to fund the regulatory activities of the Bar Standards Board (BSB) and the representation and support activities of the Bar Council. These proposals were previously scrutinised by the joint Bar Council and BSB Finance Committee (FC) in October 2018.

3. As required by law and the Legal Services Board (LSB), we now invite members of the profession to review these proposals and comment on:

- a. The introduction of two new earnings bands 7 and 8 at the top end and reducing the Band 1 fee to £100;
- b. Changing the PCF reference year to the latest data available; and
- c. Removal of the bulk discount for PCF applications

4. This paper outlines the proposed changes to the PCF; the funding requirements and high level operating budgets of three groups: Representation, Policy and Services (RPS), the BSB; and the support services provided by Resources Group (RG).

PCF History

5. Since the change from charging PCF based on years of call to gross earnings in 2015 (which was supported by a 2/3rds majority of the profession in consultation), there have been two general rises in PCF. In 2015 there was an increase in the PCF of 1.25%. In 2016, there was a larger increase of 12% to cover the defined benefit pension liability, which remains ringfenced for that purpose.

6. Inflation over the same period (2015-2019) has had/is predicted to have a cumulative effect of 10.4%. This has been managed by cutting costs, but we have reached a point at which this is no longer possible without making material cuts in output.

7. The current PCF Bands require the following payments. The table reflects the percentage of earnings the fee represents at the top of the Band. To put this in context, though, in Band 1, a barrister earning £15,000 would be paying 0.82% of earnings, a much higher ratio than practitioners earning more, even in the same band.

Current

Income Band	Band	2018 fees £	Fee as % of top of the band
0-30,000	1	123	0.41%
30,001-60,000	2	246	0.41%
60,001-90,000	3	494	0.55%
90,000-150,000	4	899	0.60%
150,001-240,000	5	1,365	0.57%
240,001>1,000,000	6	1,850	0.19%

2019/2020 PCF Proposals

8. *Introducing Bands 7 and 8* at the top end, and a small reduction for Band 1, would have the following effect:

Proposed

Income Band	Band	2018 fees £	Fee as % of top of the band
0-30,000	1	100	0.33%
30,001-60,000	2	246	0.41%
60,001-90,000	3	494	0.55%
90,000-150,000	4	899	0.60%
150,001-240,000	5	1,365	0.57%
240,001>500,000	6	1,850	0.37%
500,000>1,000,000	7	2,500	0.25%
>1,000,000	8	3,000	

9. In Band 8, the £3,000 fee is 0.3% of the earnings of a barrister declaring £1M, and this percentage reduces as earnings increase. This proposal is certainly not an attempt at redistribution of wealth but is a recognition of the increasing gap in earnings across the Bar and of the pressures on those at the publicly-funded Bar, set against the minimum income requirements of the Bar Council. The percentages above are on earnings before tax and the fees are subject to tax relief, so the absolute financial impact is not as stark as the headline increases, and tax relief has a more beneficial effect on the net cost in the higher bands than it does at the lowest levels.

10. *Changing the PCF Reference Year.* The information requested from self-employed barristers to confirm their receipts for PCF assessment has so far been a year behind: the financial information for the 2018/19 PCF was based on the calendar year 2016. The reason for this was to assist forecasting by using BMIF data to assess what the next year's PCF would be. Now that we have improved data and analysis, this is no longer necessary. Changing the finance reference year means that self-employed practitioners will provide the same information to BMIF and the Bar Council for renewal of insurance and the practising certificate. This reduces the administrative burden for barristers and BMIF (who field calls from barristers about their previous declarations). It also helps to align earnings with the other declarations made at Authorisation to Practise (e.g. area of practice) which will assist future forecasting. There is no change for employed barristers who will continue to use their latest P60 (e.g. April 2017 for the current PCF year). Changing the reference year could bring in £40k additional income.

11. *Removing the residual Bulk Discount.* The Finance Committee asked for some analysis of the likely impact of removing the Bulk Discount on the equitable treatment of Barristers. Self-employed barristers make up 82% of the barristers paying the PCF. Of those, 60.4% (8,011) received a discount last year. 71% of those in receipt of the discount are in band 4 or higher. The Employed Bar represents 18% of the total (2,990), with 43.6% (1,303) in receipt of the bulk discount. The different distribution is mainly due to CPS and Government employees usually being in bands 2 and 3. Removing the discount will not have an undue impact in the lower earnings bands: the financial impact ranges from £1.85 to £7.41 for those in Bands 1 to 3. The overall benefit to the Bar Council is the removal of an administrative burden (and, along with other changes, should lead to a reduction of one or two staff), and up to £140k of additional income (the amount foregone through the discount itself).

12. *Overall impact.* Using our forecasting model, it is estimated that the proposed changes could achieve the following additional income, covering the demands of the 2019/2020 budget proposal and assisting with funding the property project (£1.5M):

	£000's
Change in reference year	40
Removal of bulk discount	140
Band 7	497
Band 8	382
Total	1,059

13. The alternative to these proposed changes would have been an across the board PCF increase of over 7% to fund the same budget proposals. This would mean the Band 1 fee would rise to £132, instead of falling to £100; Band 3 would rise from £494 to £532; and Band 6 would rise from £1,850 to £1,992.

Income Band	Band	Current 2018 fees £	7.7% increase	Increase £
0-30,000	1	123	132	9.47
30,001-60,000	2	246	265	18.94
60,001-90,000	3	494	532	38.04
90,000-150,000	4	899	968	69.22
150,001-240,000	5	1,365	1,470	105.11
240,001>500,000	6	1,850	1,992	142.45

14. The proposed changes will give the Bar Council a sustainable financial position for the next financial year and beyond. It is fully intended to move to 3-year financial planning, based on improved analysis; to improve non-PCF income; and to drive an efficiency programme looking at all costs and future potential commitments. These changes are aimed at ensuring that future demands on PCF are minimised. The property project will be a major capital cost over the next financial year and we have had to be mindful of cash flow and the maintenance of a minimum reserve.

Income and Expenditure 2018 /19 Forecast

15. *Income.* In the current financial year, there have been significant variances in income compared to the budget forecast for PCF and BRF. This is due to the inherent uncertainty in accurately predicting the future number and earnings of barristers (something this proposal seeks to mitigate as outlined in paragraph 14) and the likelihood that they will contribute to a voluntary fee (BRF). The shortfall against budget amounted to £391k for PCF and £172k for BRF at the start of the year. There has been some recovery on both and BSB BPTC income is now expected to be £200k better than forecast. However, we cannot set a budget for next year on a rolling basis.

16. In the last few months we have conducted a thorough review of income and expenditure trends and worked with our business intelligence analyst to improve forecasting based on empirical data collected over the last four years, supplemented by information supplied by BMIF. A 3-year financial planning process will allow greater management control and oversight. This provides a more reliable basis for forecasting income, at least for PCF, for next year and thereafter.

17. *Expenditure.* The bulk of expenditure across the three groups (RPS, BSB and RG) is in staff costs, facilities, IT, professional services etc. and so cost reductions are hard in the short term, without a significant impact on output. Increases in expenditure can be recurrent (e.g. annual salary settlements, embedding the BSB policy to start paying prosecutors for disciplinary tribunals) or non-recurrent (e.g. IT system development, the property project, accommodation for a Chair not based in the south-east).

2019/2020 Budget Proposals

20. *Assumptions.* The following assumptions have been made:

- a. A maximum 3% uplift in staff costs to account for cost of living and performance related pay.

b. The original assumptions with regard to the Property programme have been retained until there is more certainty in the outcome of negotiations.

21. The 2019/2020 income and expenditure forecasts are cautious, given the experience of this year and the need to ensure the capital budget for the property project (£1.5m) is protected without significantly depleting reserves. It is possible that the realised position could be appreciably better due to the vagaries around forecasting using imperfect information, thereby giving some protection against future PCF changes.

22. *Expenditure.* The headline 2019/2020 expenditure set against the 2018/2019 budget is forecast to be:

General Council of the Bar				
Expenditure	18/19	19/20		
	£000's	£000's		% Change
RPS	3,681	3,908	↑	6.1%
RG	4,952	5,218	↑	5.4%
BSB	5,212	5,474	↑	5.0%
	13,845	14,599	↑	5.4%

23. *Main Cost Increases:*

a. RPS. Two additional staff in the Policy department (Head of Crime and a Researcher) to support achievement of the strategic objectives: £128k. The team is substantially smaller than it was only 4 years ago and is struggling to cover all the demands. The CEO is convinced that the new posts are necessary. We spend c.£50k on outsourced research each year and this does not cover all the research we need: much of this could be saved in future by having an in-house researcher.

b. RG. Additional resources in the finance team to deliver the finance stabilisation and improvement programme, which is essential (these additional resources are non-recurrent and will reduce in 2020/2021 once processes and controls have been improved): £92k.

c. BSB. Part-year effect of making payments to prosecutors in 2019/2020: £72k. The recurrent effect for subsequent years is approximately £300k per annum.

24. *Main Cost Savings:*

a. BSB headcount savings 5 full time posts to offset the increases in expenditure.

b. RG staff savings in HR, Facilities and IS by reducing temp staff and redundancy due to the print outsourcing, £103k.

25. *Income:*

General Council of the Bar				
Income (Non PCF)	18/19	19/20		
	£000's	£000's		% Change
RPS	1,771	1,659		6.3%
RG	157	155		1.0%
BSB	1,169	1,059		9.4%
	3,098	2,874		7.2%

a. RPS: decline in the BRF forecast of 12.94%; £128k and reduced income from the affinity partnership and training and events. There are additional income streams in the pipeline, for instance from the proposed 'chambers package'.

b. BSB: forecast income has decreased by 9.4%; £110k, due to a decrease in income from authorisations, £75k, and BPTC decrease; £120k. There has been new additional income (£50k) from the authorisation framework, and an allowance for the part-year effect of recovering BSB costs in tribunals; £35K. These forecasts have been unreliable in the past and may be pessimistic.

26. The Finance Director has examined every element of the 2019/2020 budget proposals from each group to minimise cost growth, whether recurrent or non-recurrent. We are confident that the proposals are robust and in line with our strategic objectives.

Next steps

27. Following a review of the consultation responses, all operational areas will be instructed to prepare detailed operating budgets that meet the income and expenditure budget control totals. This process will include bringing together the financial plans and the operating plans to produce and publish the annual business plans that link resources, activities and priorities for both Bar Council and Bar Standards Board.

28. The detailed financial plans will be brought to the joint Bar Council and BSB Finance Committee for review and approval in February 2019.

29. We welcome views from the profession on these proposals and invite you to write to:

Treasurer@barcouncil.org.uk

Please send your responses in by **1700 on Wednesday 5 December 2018**.

Richard Cullen
Interim Finance Director
November 2018