



CONSULTATION ON THE BAR COUNCIL'S
2022/23 BUDGET AND PRACTISING
CERTIFICATE FEES (PCF) PROPOSAL

Response: January 2022

A response from the Bar Association for Commerce Finance and
Industry

INTRODUCTION

Founded in 1965, the Bar Association for Commerce, Finance and Industry ("BACFI") represents the interests of employed barristers working in commerce, finance and industry. BACFI's members include barristers employed in commercial organisations and law firms, employed by the government legal services, and those working through their own consultancy practices.

BACFI is keen to play its part as a representative organisation in helping shape the development of the Bar of England and Wales, by bringing forward the views of its members. BACFI actively supports the objective of an independent and high-quality bar, accessible to all.

GENERAL REMARKS

Thank you for the opportunity to comment on the 2022/23 Budget and Practising Fees (PCF) Proposal November 2021 – Consultation.

1. DO YOU AGREE WITH THE GCB'S PROPOSAL TO INCREASE THE 2022/23 PCF AS DETAILED IN THE PAPER? IF NOT PLEASE EXPLAIN WHY.

The proposal to increase the 2022/23 budget and consequently the PCF (the "Proposal") is premised primarily on an extraordinary uplift in BSB staffing (an overall increase of 40% headcount) based on current perceived pressures however there is very little long-term, clear business justification provided in the paper/Annexes 1 to 3, nor any clear and obvious link of the need for uplift to the BSB "Proposed Strategy for the Next Three Years" (the "BSB Strategy"). The BSB Strategy should serve to underpin any funding as a normal business case would - it does not, in our view.

In addition, the Proposal comes at a time of strong economic headwinds, for individuals and for organisations and we expect many Self-Employed and Employed practitioners may have sadly found themselves with reduced income or (in the case of Employed Barristers) redundancy. In some instances, members of the Bar may have found themselves reliant on the financial support from other avenues (such as the Inns). Against this backdrop, the business case for a PCF increase must be clear and of obvious benefit to the Bar as a whole. The nature of the pressures driving the uplift seem to broadly take the form of: not meeting service levels for turning around reports (which the paper acknowledges is not new); the rising volume of reports under assessment (but it is not clear to us why this is the case and there does seem to be acknowledgement that it is too early to be certain of long-term trends (Annex 1, Clause 5)); and complexity of reports (again with no clear reasoning as to why, or as to the nature of the complexity). We also note the reference (Annex 1, clause 4) to the potentially temporary nature of the pressures. It is not therefore clear to us that 14 individuals for 22/23, with an additional 5 in 23/24 can be justified and therefore the Proposal cannot be justified.

However, we do support BSB's request for increased funding to a limited extent based on raising wages for existing headcount, in line with inflation.

2. DO YOU THINK THE PCF FOR 2022/23 REPRESENTS VALUE FOR MONEY?

No, we do not think the PCF will represent value for money. The split of the PCF that the BSB receives is quite significant and they have not, in our view, provided a detailed, fully costed business case to justify the increase. In our view there has been a lot of unnecessary expense incurred by the BSB in recent times, such as many consultations, changes to the pupillage framework and engagement in areas that do not squarely fit into their remit as a regulator.

3. DO YOU HAVE ANY OTHER COMMENTS REGARDING PCF OR THE GENERAL COUNCIL OF THE BAR BUDGET FOR 2022/23?

Several of the example topics described in paragraphs 17 and 18 of Annex 1 are areas that do not really seem to fit into the BSB's remit as a regulator of Legal Services. In addition, the D&I and LawTechUK projects are projects that are currently in progress so it would be helpful for the BSB to explain why the future agenda is so much greater than before, and cannot be addressed by existing staff.

FURTHER CONSULTATION AND CONTINUED ENGAGEMENT

BACFI is grateful to the Bar Council for the opportunity to respond to this consultation and looks forward to continued engagement in the future.

Bar Association for Commerce Finance and Industry

January 2022