



CHIEF EXECUTIVE

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

Mr Matthew Hill

CEO, Legal Services Board

24 January 2022

Dear Matthew

Re: 2022/23 PRACTISING CERTIFICATE FEE SUBMISSION

1. I attach the final submission for the General Council of the Bar (GCB) practising fee and budget for 2022/23. We have discussed the primary reason for the delay in submitting.
2. As the **Approved Regulator** (AR), I believe that we have followed the LSB's Practising Fee Rules and guidance, and we have taken into account the comments of your team on an earlier draft. We conducted a 6.5 week consultation with the profession: <https://www.barcouncil.org.uk/uploads/assets/41888f44-91de-4a12-82a40eafc5ecbf01/General-Council-of-the-Bar-Budget-and-PCF-Consultation.pdf>
3. There was an overwhelming response, compared to previous years, from individuals, chambers and representative bodies, together representing much of the profession. The responses are summarised within the submission at Section III.
4. Most of the responses concentrate on the BSB's budget. The key themes are:
 - The lack of a fully costed business case with sufficient justification for an extraordinary uplift in staff (c.40% over 3 years, mainly in 2022/23).
 - The issue of money, time and resources spent on regulating unregistered barristers, paid for by registered ones.
 - Concerns that an increase in the PCF is unfair and misplaced, especially considering a struggling publicly funded Bar, which has lost a significant amount of income due to the impact of the pandemic.
 - Mission creep and regulatory overreach / the role of the regulator and budgetary efficiency.

THE BAR COUNCIL

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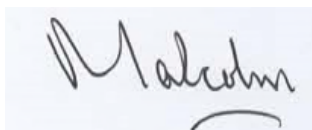
5. As the **Representative Body**, the Bar Council shares these very serious concerns and is not satisfied that the resources and budget required by the BSB are 'reasonable'. As you know, *'reasonable ... requires that the resources can be objectively justified as necessary and proportionate'*.¹ The Practising Fee Rules require that the fees should be 'proportionate' and that *'the practising fee should be adequate to effectively discharge the approved regulator's regulatory functions in an efficient and cost-effective manner.'*² We have sought information from the BSB to assure ourselves that their budget is reasonable and proportionate (see annexes 1-3 of the consultation document) but, given the scale of the increase in recurrent spend, the responses fall far short of a sufficient justification and we are far from satisfied that the budget is reasonable and proportionate.

6. It should also be noted that the BSB set its budget based on the themes set out in its recent strategy consultation, before that consultation was complete. As far as we are aware, those themes have not been translated into a detailed programme of work or costed. This process of setting a detailed and very significantly inflated budget, before a strategy and business plan have been agreed, is simply the wrong way around. It appears to the Bar Council that, because the BSB is failing to meet its KPIs, it has decided that the answer is to throw resources at the problem without adequate analysis of the alternatives, costs, benefits and risks. We do not find this acceptable.

7. Given the constraints of the new IGRs on what a representative body can and cannot do, we seek your assistance in finding out whether the BSB's budget is justified. I should point out that the Officers of the Bar and I are concerned that the AR has to seek the assistance of a 3rd party in carrying out its duties under the Legal Services Act 2007.

8. I would welcome another opportunity to talk about the way ahead, informally.

Yours sincerely

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

Malcolm Cree CBE

¹ <https://legalservicesboard.org.uk/wp-content/uploads/2019/07/IGR-Guidance-July-2019.pdf>

² <https://legalservicesboard.org.uk/wp-content/uploads/2021/02/Final-PCF-Guidance-2021.pdf>