



The Bar Council

**The General Council of the Bar of England and Wales**  
**Practising Certificate Fee (PCF) Application and Budget**  
**Submission 2022/23 Version 2**

The General Council of the Bar  
2022/23 PCF submission and Bar Council & BSB budget

	<b>Description</b>	<b>Page</b>
<b>Contents</b>		
<b>I. Summary and Overview</b>	Proposed PCF Fee 2022/22 2023 PCF Collection forecasts	<b>2-10</b>
<b>II. Developing the overall budget and application</b>	Setting and Managing Budgets 2022/23, Budgetary Control Programme Activity Financial and PCF Outlook Reserves BSB Budget Bar Council Budget Application of permitted purposes	<b>10-24</b>
<b>III. Consultation on PCF</b>	Consultation Process. Consultation paper link, which includes the BSB 'Case for Strengthening the Bar Standards Board' and subsequent correspondence	<b>25-30</b>
<b>IV. Permitted Purposes</b>	Allocation of PCF to Permitted Purposes Operating Budgets BSB and Bar Council Allocation of PCF to non-Regulatory Permitted Purpose activities	<b>31-38</b>
<b>V. Transparency of PCF information to fee-paying members</b>		<b>39</b>
<b>VI. Regulatory and Equality Impact assessment</b>	Equalities Impact Assessment	<b>39</b>
<b>VII. Other supporting information</b>	Financial Risk & Mitigation	<b>41</b>
<b>VIII. Contact details</b>	Next Steps	<b>41</b>
<b>ANNEX 1</b>	EIA	<b>43-47</b>
<b>ANNEX 2</b>	Additional Financial Information	<b>48</b>
<b>ANNEX 3</b>	Additional information: BSB response to LSB queries	<b>49-57</b>
<b>ANNEX 4</b>	Additional information: BSB budget by function	<b>58</b>
<b>ANNEX 5</b>	Additional information: BSB analysis of additional posts	<b>59</b>

## I. Summary and Overview

### Introduction

1. For the purpose of this submission the following terms will be used:
  - a. The 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 (BC): the representative body
2. 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 proposed Strategy for the next three years 2022/23 – 2025/26: <https://www.barstandardsboard.org.uk/uploads/assets/be75433d-8d46-4c27-b578cd490f49a95c/BSB-Strategy-consultation-Oct2021.pdf>
3. The Bar Council undertakes many activities that are classed as permitted purpose activities, and these can be 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/uploads/assets/86520690-7ab5-4cb1-93e63c26bc300c9f/Bar-Council-Strategic-Plan-2019-24.pdf>

A pre-application discussion was held with the LSB on 13 October 2021.

### Expectations from the last year's decision notice.

4. Detailed forecasts have been included for income and expenditure up to 2025/26 (table 17).
5. This year the PCF consultation lasted for 6 ½ weeks. The consultation has been available on the Bar Council websites. The BSB Regulatory Update and Bar Talk (Bar Council) have been received by over 17,000 registered barristers with details of how to access the full consultation. More details in Section 3.
6. The proportion of PCF allocated to the BSB, Bar Council, LSB/OLC and DB pension scheme has been clearly shown in this year's application and PCF consultation.
7. Value for Money. The GCB ensures value for money through its purchasing and procurement policies. These set out the appropriate controls and governance for routine purchasing and procurement exercises and ensure that Value for Money is a consideration at each stage of the process. Most in year procurement is included in the budget cycle to ensure it aligns with the strategic objectives and permitted purposes. All contracts above £250k are notified to the joint Finance Committee. Planned programme expenditure within the Bar Council and BSB requires a business case demonstrating how the proposed work meets the strategic objectives (aligned with permitted purposes), the planned benefits and how those benefits will be

measured. Depending on the size of the prospective programmes they are approved by relevant SMT or Board.

8. Joint programmes are approved by the Information Management Programme Board (IMPB). This is a joint Bar Council and BSB executive Board for programmes resourced through the Shared Services teams.

## Proposed Practising Certificate Fees 2022/23

9. This year it is intended to increase the annual PCF. Without applying measures to spread the increase over time, the planned expenditure for 2022/23, particularly by the BSB, would require an across-the-board increase of 9%. However, we are proposing to limit this to an overall 4.5% increase in the PCF. We plan to achieve this by spreading the burden across the profession, with no change to earnings Band 1 and that the increase be limited to 3% for Bands 2 to 5. Bands 6, 7 and 8 will be revised, resulting in each of those bands being split. The lower half of each of these bands will have a 3% increase and for the higher end of each of those Bands the increase will be limited to 9%.

Table 1: Income Bands and fees for 2022/23

Income Band	Range	Current Fee	Proposed Fees
Band 1	£0 - £30,000	100	100
Band 2	£30,001 - £60,000	246	253
Band 3	£60,001 - £90,000	494	509
Band 4	£90,001 - £150,000	899	926
Band 5	£150,001 - £240,000	1,365	1,406
Band 6/1	£240,001 - £350,000	1,850	1,906
Band 6/2	£350,001 - £500,000	1,850	2,017
Band 7/1	£500,001 - £750,000	2,500	2,575
Band 7/2	£750,001 - £1,000,000	2,500	2,725
Band 8/1	£1,000,001 - £1,500,000	3,000	3,090
Band 8/2	£1,500,001 and over	3,000	3,270

10. The 2022/23 GCB PCF funds three activities:

- The s51 permitted purposes operating and capital costs of the Bar Council and BSB;
- The LSB/OLC recharges for 2022/23, and
- Funding for the defined benefit pension scheme deficit recovery plan.

11. By applying the changes above, the PCF collection for 2022/23 is forecast to be £16.84M in the spring 2022 collection. The Bar Council has kept its share of the PCF in line with previous years (approximately 25%). However, the share of the fee attributable to the Bar Standards Board has increased to 61%. The primary driver for the increase is a substantial increase in staff, deemed necessary by the BSB to meet its regulatory commitments. Our forecasts of PCF income for 2022/23 show that without an increase in PCF there will be a substantial shortfall in the amount needed to cover the planned increase in recurrent expenditure.

12. Last year in preparation for what we expected to be a difficult year and a likely fall in PCF income in March 2021, we took early action to curb expenditure through a pay freeze and cuts to senior salaries, along with the furloughing of staff at the Bar Council and Resources Group (shared services). This, together with reduced expenditure due to cancelled events, travel savings and additional regulatory income allowed the GCB to generate a greater one-off surplus (to budget) than would have been possible in a pre-Covid year.

13. In addition to this surplus we were able to obtain a £5m Coronavirus Business Interruption Loan Scheme (CBILS) loan, backed by the UK Government, which was received on 31 March 2021.

14. In the event, the PCF collection for 2021/22 did not match our worst-case forecasts, though due to the inherent uncertainty caused by the pandemic, it is possible that the depression of PCF income may be felt over a longer period than initially anticipated.

15. The self-employed Bar, which makes up 80% of the profession, declare their PCF income bands based on a cash receipts basis. Therefore, it is likely that the economic effect of the 2020 lockdowns will still be reflected in the PCF collection for 2022/23. Without any increase in PCF in 2022/23 our projections show PCF income would be £16.1m, an increase from £15.3m this year, reflecting an increase in the number of barristers and barristers moving up through the income bands (demographic changes).

16. If the proposed increase in costs were to be covered in one year this would lead to an increase in PCF of 9%. However, we propose using the reserves to limit the increase in PCF to 4.5%. This will mean the GCB as a whole would have a balanced budget. However, the BSB would still run a deficit budget for a number of years with the difference being supplemented by reserves until it achieves a balanced budget. The proposed 4.5% increase in PCF means the expected PCF for 2022 /23 will be £16.84m. A further increase in 2023/24 will almost certainly be required.

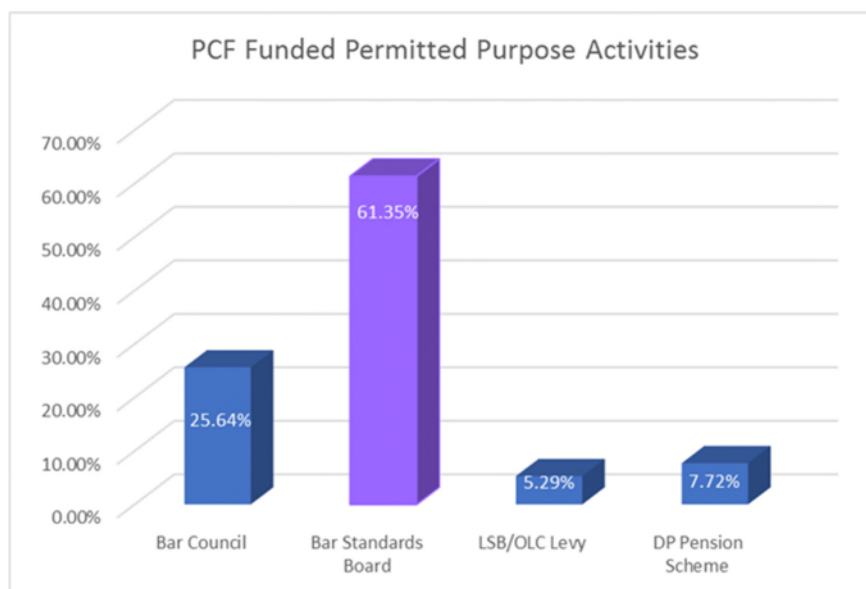
17. In order to assist the profession in its time of need the Bar Council and BSB agreed that where a barrister had delegated payment of the PCF to their chambers, the PCF could be staged (two payments, 6 months apart). This has happened for the last two years and will be used one final time for the 2022/23 Authorisation to Practise (AtP) process and allow Chambers paying in "bulk" to pay in two instalments with a minimum 50% first instalment due by 31 March and the balance due by 30 September.

The General Council of the Bar  
2022/23 PCF submission and Bar Council & BSB budget

Table 2: Split of PCF funds

£000's		<i>PCF Funded Permitted Purpose Activities</i>	<i>PCF Funded LSB/OLC Levy</i>	<i>Legacy DB Pension Scheme</i>	<i>Total PCF</i>
2022/23 Proposed	Bar Council	4,319	263	383	4,965
		25.64%	1.56%	2.27%	29.47%
	Bar Standards Board	10,336	629	917	11,882
		61.35%	3.73%	5.44%	70.53%
Total		14,655	892	1,300	16,847

Table 3: Split of PCF funds between Bar Council, BSB, LSB/OLC levy and DB pension scheme



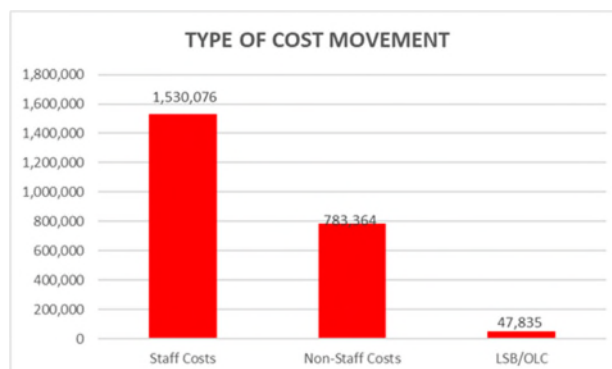
The General Council of the Bar  
2022/23 PCF submission and Bar Council & BSB budget

Table 4: Proposed Expenditure for 2022 /2023

**General Council of the Bar**

Expenditure	21/22	22/23	Change	% Change	
	£000's	£000's	£000's		
<b>Staff Costs</b>					
Bar Council	2,793	3,028	235	8%	↑
Resources Group	1,827	2,019	192	10%	↑
BSB	4,957	6,060	1,103	22%	↑
	<b>9,577</b>	<b>11,107</b>	<b>1,530</b>	<b>16%</b>	
<b>Non Staff Costs</b>					
Bar Council	1,403	1,529	127	9%	↑
Resources Group	4,113	4,628	515	13%	↑
BSB	2,032	2,173	141	7%	↑
	<b>7,548</b>	<b>8,331</b>	<b>783</b>	<b>10%</b>	
<b>Non Operating Expenditure</b>					
DB Pension Fee	1,300	1,300	0	0%	↔
LSB/OLC Costs	844	892	48	6%	↑
	<b>2,144</b>	<b>2,192</b>	<b>48</b>	<b>2%</b>	
	<b>19,268</b>	<b>21,630</b>	<b>2,361</b>	<b>12%</b>	↑

Table 5



18. If the GCB did not increase PCF and just used the reserves to cover the increase in recurrent costs this would inevitably lead to a much greater increase in PCF in the future. As the proposed cost increases are recurrent the GCB must be able to cover these in the long term. The proposal put forward is the best way to mitigate the increases by using reserves without substantially weakening the financial position, while balancing the need to cover long term recurrent costs.

19. The GCB is able to use its reserves in this way due to work it undertook in 2021 /2022 to cut costs and obtain a CBILS loan. Without these actions the GCB would have no other option than to pass on the full amount of the cost increases (9%) in one year rather than the current proposal.

Table 6

<b>Planned Permitted Purpose Spend - 2022-2023</b>			
	<b>Bar Council</b>	<b>Bar Standards Board</b>	<b>Total</b>
	£000s	£000s	£000s
<b>Funded from anticipated PCF Collection</b>	4,319	10,336	14,655
<b>Funded from Other Permitted Purpose Income</b>	249	2,099	2,348
<b>Funded from Permitted Purpose Reserves</b>	-	486	486
<b>Total Planned Permitted Purpose Activities</b>	4,568	12,921	17,489
<b>Non-Permitted Purpose Spend</b>	1,948		1,948
<b>Total Budgeted Operating Expenditure</b>			<b>19,437</b>

## Key Features of the GCB intended budget

20. PCF income will be used to fund Bar Council and BSB activities as shown in table 25 (s51Report).

21. The proposal is for GCB staff and non-staff expenditure (operating costs) to increase against the previous year by 14%<sup>1</sup>. The previous year's budget showed operating expenditure of £17,124k. This will increase by £2,313k in 2022/23 to £19,437k. The £2,313k net is broken down as follows:

22. The Bar Council has a net increase in operating costs of £362k (£235k staff and £127k non-staff). This is a 9% increase in operating costs (staff costs increase by 8% and non-staff costs by 9%). There is a decrease in RPS capital expenditure of £122k to £281k (£79k decrease in direct projects and a £43k drop in indirect projects).

23. BSB has a net increase in operating costs of £1,244k (£1,103k staff and £141k non-staff). This is an 18% increase in operating costs (staff costs increase by 22% and non-staff costs by 7%) and an increase in total capital expenditure of £122k to £718k (£226k increase in direct

<sup>1</sup> 12% if the DP pension contribution and LSB/OLC levy is included.

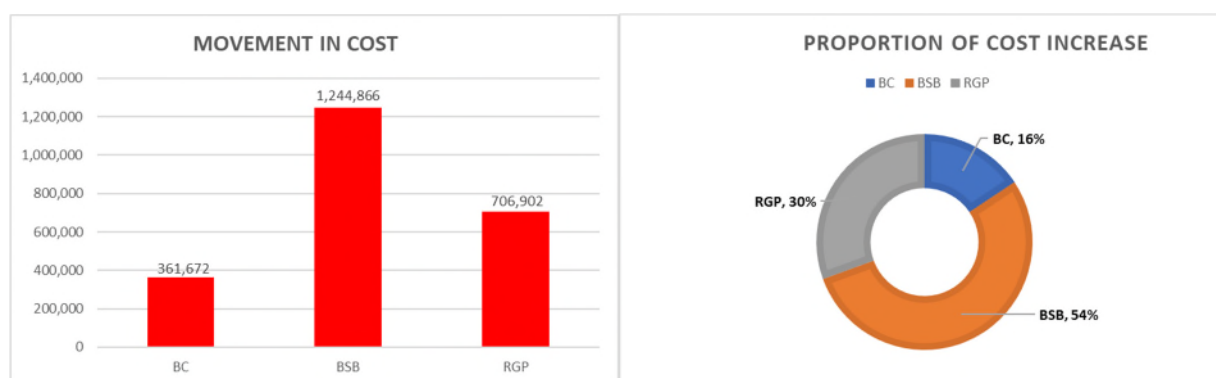


projects and a decrease of £104k on indirect projects). Please refer to the BSB section for detail on the additional non-staff costs.

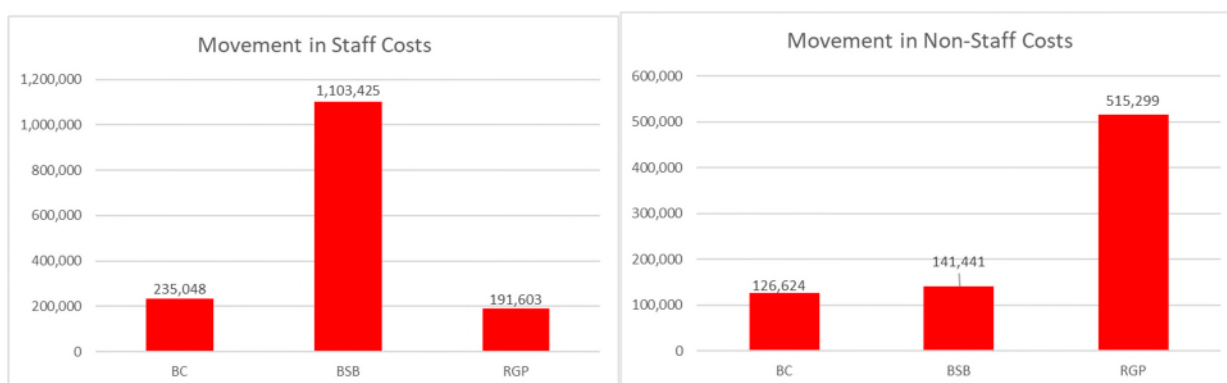
24. Resources Group has a net operating cost increase of £707k (£192k increase in staff costs; non-staff cost increases in IS of £35k, Finance and HR corporate overhead of £216k, depreciation of £227k, and facilities £37k). The CBILS loan interest payments will commence in 2022/23 contributing to the increase in corporate overhead costs. The 2021/22 capital programme has contributed to the increased depreciation. Overall, this is a 12% increase in operating costs, (staff costs increase by 10% and non-staff costs by 13%).

25. The capital budget for 2022/23 remains capped at £1M.

Tables 7 & 8

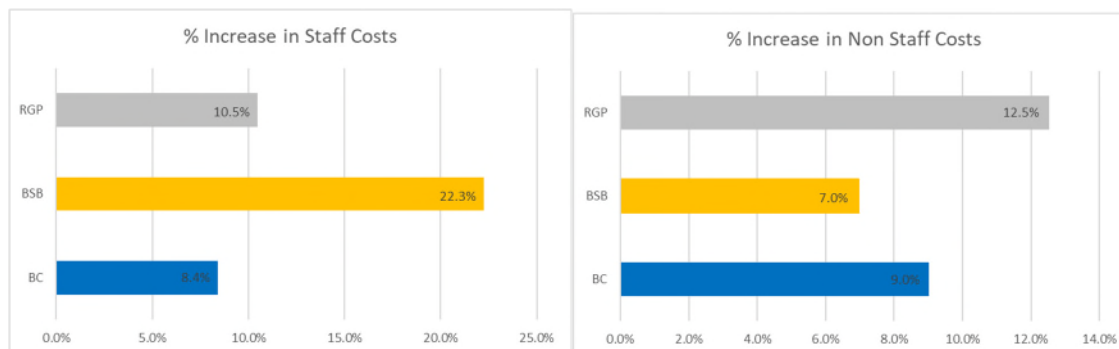


Tables 9 & 10



The General Council of the Bar  
2022/23 PCF submission and Bar Council & BSB budget

Tables 11 & 12



## Capital Expenditure

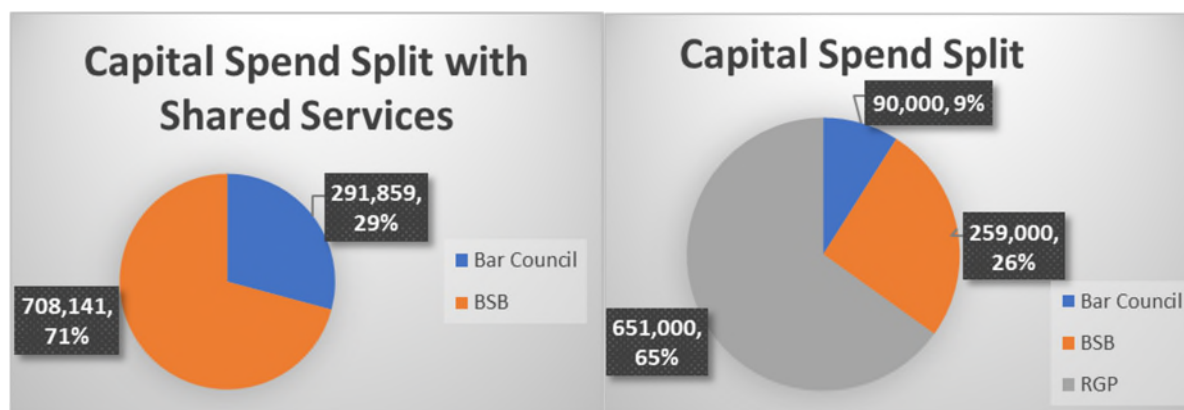
Table 13

### General Council of The Bar Capital Spend

	Budget 2022-2023			2022/23	2021/22	Variance
	Bar Council	BSB	RGP	GCB	GCB	
	£	£	£	£	£	
<b>Total Direct Projects</b>	<b>90,000</b>	<b>259,000</b>		<b>349,000</b>	224,390	<b>(124,610)</b>
<b>Indirect Expenditure</b>			<b>651,000</b>	<b>651,000</b>	775,610	124,610
Shared Services Capital Projects recharge	201,859	449,141	<b>(651,000)</b>			0
<b>Total Projects</b>	<b>291,859</b>	<b>708,141</b>	<b>0</b>	<b>1,000,000</b>	1,000,000	0

26. The overall capital expenditure for the GCB remains at £1m. The shared services capital projects mainly relate to hardware updates, implementation of 'Sharepoint' and enhancements to existing systems. Details of changes in the direct expenditure is shown under the relevant parts of this document.

Table 14 & 15



## 2021 PCF collection forecasts

27. We forecast that we will collect and use PCF of £16.8M as outlined in Table 16 below.

Table 16

<b>2022/23 Forecast</b>	<b>2022/23 Average PCF</b>	<b>Number of Barristers As At 1-4-21</b>	
	996.06	16,914	16,847,433
		<b>Total Forecast Collection</b>	<b>£16,847,433</b>
	Breakdown of Usage	2021/22 Budget	2022/23 Budget
	BC & BSB PCF Funded Costs	£12,297,108	£13,655,477
	Capital Costs	£877,066	£1,000,000
	LSB/OLC Levy	£844,121	£891,956
	Defined Benefit Pension Scheme	£1,300,000	£1,300,000
		£15,318,295	£16,847,433
	Contingency	£0	£0

## II. Developing the overall budget and application

### Setting and Managing Budgets 2022/23

28. The following section describes the steps in the Bar Council budget setting process and includes the independent process followed by the BSB. These steps are consistent with the revised Internal Governance Rules (IGR).

#### Building the high-level budget

29. 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, who provides a shared service to the BC and BSB.

30. Annual expenditure is driven by BSB and Bar Council objectives as articulated in their respective strategic and business plans.

31. The BSB budget was prepared independently to align with the strategic aims set out in the BSB's strategic priorities for the three-year period starting April 2022, although this plan is still out for consultation.

32. Budget options were scrutinised by the BSB Strategic, Planning and Resources Committee and the budget was approved by the BSB Board.

33. On 27 October 2021, the joint GCB Finance Committee agreed the parameters of an overall high-level budget that met the regulatory needs and the combined organisational financial commitments in the medium term. It did not 'approve' the budget, because that is a matter for the Officers of the Bar, the General Management Committee (with delegated authority from the elected Bar Council), and submission to the LSB.

### **Next steps in budget setting**

34. Detailed cost centre budgets that fit within the agreed high-level financial parameters will be set by relevant managers.

35. The BSB maintains a continuous review of their own financial needs and will present any revisions to the BSB budget for approval by the BSB's own committees and Board.

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

37. The planning process concludes with scrutiny of detailed budgets by the Chief Executive, BSB Director General and Directors.

### **Budgetary control**

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

39. Each budget holder has responsibility for monitoring costs and delivery of non-PCF income and expenditure, keeping their 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 purchase orders and liability to incur expenditure must be made within approved levels of delegated authority and in accordance with approved policies.

The General Council of the Bar  
2022/23 PCF submission and Bar Council & BSB budget

## Programme of Activity

Proportion of activity that is for Permitted Purposes								
Functional Area	Permitted Purposes Gross Cost (£m)	51(4)(a)	51(4)(b)	51(4)(c)	51(4)(e)	51(4)(f)	(Max 100%)	Not in Scope of PP
<b>Levies</b>								
Legal Services Board	0.374		100%				100%	
Legal Ombudsman	0.518		100%				100%	
GCB DB Pension Scheme	1.300	100%					100%	
<b>Bar Standards Board</b>								
Authorisations	1.887	100%					100%	
Supervision	0.727	100%					100%	
CAT	0.658	100%					100%	
Corporate Services/Governance	0.961	100%					100%	
Communications	0.263	100%					100%	
Public Legal Engagement	0.112	100%					100%	
Programmes	0.281	100%					100%	
Regulatory Risk	0.118	100%					100%	
Equality & Access to Justice	0.316	100%					100%	
Policy & Research	0.795	100%					100%	
Enforcement	1.419	100%					100%	
Legal Support	0.408	100%					100%	
HR	0.288	100%					100%	
Overheads - Resources Group	4.688	100%					100%	
<b>Bar Council</b>								
Policy Directorate	0.668	100%					100%	
Equality, Diversity & CSR	0.522	90%					90%	10%
EU Law	0.210			40%		60%	100%	
International	0.412					80%	80%	20%
Law Reform, Regulatory & Ethics	0.254	60%		25%	10%	5%	100%	
Remuneration & Legal Practice	0.336	45%		45%		5%	95%	5%
Communications	0.473	15%		30%	15%	15%	75%	25%
Corporate	1.710	45%		15%	15%	15%	90%	10%
<b>Total Gross P&amp;L Expenditure</b>	<b>19.698</b>							

## **The Bar Council**

40. The Bar Council provides a broad range of services to barristers. The PCF supports these activities under a number of the permitted purposes as follows:

### **Permitted purpose 51a - the regulation, accreditation, education and training of applicable persons**

41. A significant proportion of the Bar Council's work is allocated to this permitted purpose. A notable example of our work in this area is diversity and inclusion, in particular promoting equality, diversity and inclusion (including social mobility) in the profession. Specific programmes cover (i) access, (ii) retention and (iii) progression at the Bar. Another significant area of work relates to the education, training, and provision of leadership to the profession on the regulatory environment in which barristers and chambers operate, including raising awareness of key regulatory developments. Our work on providing practical advice and support on practice management falls under this permitted purpose, including drafting practice management guidance for the Bar and arranging practice management seminars on both new areas of interest and updates on existing matters. Similarly, policy work relating to remuneration and legal practice, including issues focused on access to justice and the administration of justice, fall under this permitted purpose.

42. In addition to the policy work outlined above, our policy work in relation to the Bar's ethical standards and obligations, which includes management and provision of the Ethical Enquiries Service, also falls under this permitted purpose.

### **Permitted Purpose 51c - participation in law reform and related legislative process law reform, rem/legal practice and permitted purpose 51e - the promotion of the protection by law of human rights and fundamental freedoms law reform**

43. Our work allocated to these permitted purposes covers a broad range of issues including civil, family, and criminal justice and a variety of areas of law including employment, immigration, human rights, and judicial review. Aspects of our research work are allocated to this permitted purpose so that we may inform the legislative and law reform process from a firm evidence base. We also include a proportion of our European work under this purpose which continues to be of great relevance despite the UK's departure from the European Union.

44. Law reform mainly relates to monitoring and responding to consultations that impact on the administration of justice. This includes working on matters covering a broad range of legislative matters, contributing to the Law Commission's programmes of law reform and raising awareness of current law reform issues through the likes of our annual law reform lecture.

### **Permitted purpose 51d - the provision of applicable persons of legal services or reserved legal services, immigration advice or immigration services to the public free of charge**

45. We support Advocate (formerly the Bar Pro Bono Unit) which provides a vital service to people who would otherwise have no access to justice.

### **Permitted purpose 51f - promotion of relations between the approved regulator and national or international bodies, governments or the legal professions of other jurisdictions**

46. We carry out a wide range of international engagement liaising with national, regional and global level organisations. We also work closely with the legal professions and, as appropriate,

governments of other jurisdictions across the world. A key aspect of our work under this permitted purpose is to support and promote the rule of law internationally.

## **The Bar Standards Board<sup>2</sup>**

### **Permitted purpose 51(a) - The regulation, accreditation, education and training of applicable persons**

47. The BSB is currently in the processes of finalising its new three-year strategic plan. The budget has been proposed on the basis of the priorities set out in its recent strategy consultation. The priority themes identified were:

- Providing consumers with confidence in using the services of barristers;
- Maintaining and improving access to justice;
- Enabling the benefits and mitigating the risks of innovation and technology;
- Promoting best practice in chambers' oversight of standards and diversity.

48. Alongside this, the BSB has undertaken a root and branch review of its capacity and capability, having concluded that it was insufficiently resourced to undertake all of the above work to the desired standard.

49. The vast majority of the BSB's expenditure goes on the first of these priorities, which includes our core regulatory operations, flowing from our regulatory arrangements under section 21 of the Legal Services Act 2007. This includes our work to oversee the education and training of barristers, our authorisation of barristers and entities to undertake reserved legal activities, our supervision and enforcement functions, and our anti-money laundering work. This core work is the primary way in which we promote the public interest and the other regulatory objectives and the BSB is not currently meeting its KPIs in these operational areas. Considerable work has already been undertaken to improve our efficiency and the new budget reflects the need to provide greater resilience to deliver our core regulatory functions to time and to quality, while developing our people and ensuring their well-being. We are confident that we can further increase productivity over the next three years through further process improvements and through continuing investment in technology. This will be the focus of the Regulatory Operations Review which will get under way in 2022/23. We will also begin a review of the enforcement section of our Handbook over the course of the next strategic plan.

50. The need to improve our performance against our KPIs for this core regulatory work was strongly supported by those who responded to our strategy consultation and to the Bar Council's PCF consultation even if consultees did not acknowledge that this would require extra investment. Opinion was more divided about our other policy priorities with strong support from the Legal Services Consumer Panel but with the Bar Council and COIC concerned about mission creep and duplication of work done by them.

51. In addition to our core regulatory operations, we intend to:

- a. strengthen our policy and research capability to evaluate our regulatory interventions effectively and to participate in partnership working (this impacts all priority areas);
- b. improve our engagement with consumers and our delivery of public legal education (priority 2);
- c. enhance our capacity to engage proactively with barristers, chambers and the profession to define and to promote good practice across the Bar, particularly in administering chambers to ensure diversity and high standards (priority 4).

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<sup>2</sup> This section (paragraphs 44 to 50) was written solely by the BSB

52. The BSB will undertake a number of projects which will further promote the regulatory objectives, in addition to completing work that began in previous years. For example, we will:

- a. Reinstate the paused review of the Code of Conduct (priority 1);
- b. Continue our work on assuring competence (priority 1);
- c. Continue our work to implement the CMA recommendations to promote consumer choice and price transparency (priority 2);
- d. Improve our capacity to consider the implications of technology and innovation in the sector and engage with developments that may be relevant to the Bar (priority 3);
- e. Refresh our work with the profession to promote better practice in promoting diversity and inclusion (priority 4).

53. We will also continue to implement the well-led action plan agreed with the LSB and ensure that the regulatory objectives are at the forefront of all decisions made by our Board. We will also:

- a. Continue our work to define the culture, values and behaviours essential to BSB's effectiveness as an independent regulator;
- b. Review the IGR settlement, and in particular the case for incorporating BSB with a view to streamlining governance, underpinning operational freedom and reinforcing our independent identity; and
- c. Pursue opportunities to improve our efficiency.

**The BSB response to supplemental LSB questions on this section are included at Annex 3**

## **PCF Outlook beyond 2022/23**

54. Table 17 provides a summary of the financial outlook beyond 2022/23 with indicative income and expenditure forecasts to 2025/26. The PCF forecasts include a minimum uplift of 3% which will be needed to maintain a healthy financial position and mitigate the inflationary effects on our recurrent costs. At this stage we cannot say if the required increase will be covered by the natural growth of the PCF due to increases in the number of barristers and their movement through the income bands or if this will require an increase in the PCF rates. Any necessary changes in the PCF rates will be considered on an annual basis.

55. We shall continue to plan budgets and set the level of the PCF on a year-by-year basis in the light of the circumstances at the time and having regard to barristers' earnings / incomes. This will enable the GCB to cover the costs of regulatory and other 'permitted purposes'; and to manage the cash flow; and to re-build our liquid reserves.

56. These forecasts show the level of income and expenditure necessary for the GCB to meet its current financial commitments. The forecasts contain initial assumptions on income and cost savings. These assumptions will be revisited at the end of the 2022/23 AtP process to assess if any additional measures are needed. The Inns' contribution is uncertain and has to be bid for each year. The BRF income is a voluntary subscription for barristers, and it is currently a minimum of £150 per person / per annum. The BRF income is expected to decrease as the fee will no longer provide access to Certificates of Good Standing from April 2022.

57. We expect the organisation to have a P&L breakeven in 2022 / 2023 and generate surpluses from 2024/25 onwards. As for the individual entities the Bar Council will generate surpluses while the BSB budget will remain in deficit until 2028/2029. The cash position will return to a surplus when the final loan repayments are made in 2026/2027.



The General Council of the Bar  
2022/23 PCF submission and Bar Council & BSB budget

Table 17

<b>2022/23 High level budget and indicative outyear proposition for GCB</b>						
Values in £000's						
	2020/21 Actuals	2021/22 Forecast	2022/23 Budget	2023/24 Indicative Fcst	2024/25 Indicative Fcst	2025/26 Indicative Fcst
PCF	15,747	15,342	16,847	17,353	17,873	18,410
BRF	1,278	1,283	1,190	1,300	1,300	1,300
Contribution from Inns	250	214	214	214	214	214
Other Bar Council Income	842	891	1,065	918	929	939
BSB Fees and Charges	2,637	1,862	1,540	1,587	1,637	1,689
Other Income	489	152	793	831	872	915
<b>Total Income</b>	<b>21,243</b>	<b>19,744</b>	<b>21,649</b>	<b>22,203</b>	<b>22,825</b>	<b>23,467</b>
Operating Spend	9,543	10,788	12,791	13,342	13,739	14,148
Overheads	5,552	5,976	6,547	6,631	6,735	6,822
Other Spend	1,442	2,192	2,192	2,192	2,192	2,192
Interest Expense	0	0	99	78	57	57
<b>Total Spend</b>	<b>16,537</b>	<b>18,956</b>	<b>21,629</b>	<b>22,243</b>	<b>22,723</b>	<b>23,219</b>
<b>Net Surplus/(Loss)</b>	<b>4,706</b>	<b>788</b>	<b>20</b>	<b>(40)</b>	<b>102</b>	<b>248</b>
	<b>22.2%</b>	<b>4.0%</b>	<b>0.1%</b>	<b>-0.2%</b>	<b>0.4%</b>	<b>1.1%</b>

\*Forecast as at 20th October 2021

## Reserves

58. The joint Finance Committee approved the revised the Reserves Policy at its meeting on 23 November 2021.

59. The target range for the Permitted Purposes Reserve should be £3m - £6m. This is based on the estimated operating costs for a minimum period of 3 months and a maximum 6 months. This level of reserves is to mitigate the risk of unexpected costs arising that have not been accounted for in the last budget and PCF setting process, and any potential delays to the PCF collection process (as happened in 2020 due to the pandemic). The target range is kept under review by the joint Finance Committee. When reviewing the target level the joint Finance Committee monitors the 5-year financial projections, the expected level of expenditure and the level of PCF income needed for long term financial stability.

60. As the GCB is the legal entity it is impractical to hold separate reserves for the Bar Council and BSB. There is a separate permitted purposes reserve for S51 purposes. The Permitted Purposes reserve is generated through the use of PCF for the Permitted Purpose operations of the Bar Council and BSB as shown in the S51 report (chart 25). Reserves generated through non-Permitted Purpose activities are held in the General reserve.

61. As part of the annual budgeting process the BSB, through its SPR committee and BSB Board, decide on the level of funding needed from either the annual PCF collection or Permitted Purpose reserve. Any in year additional expenditure is decided by the SPR committee and BSB

Board this is then funded through either surplus PCF funds if available or the Permitted Purposes reserve. The BSB has full access to the Permitted Purpose reserve for its regulatory needs.

62. The Free Cash Reserve: the value of unrestricted cash available for spending will always be less than the amount of total equity (which can often be misleading). The Free Cash Reserve is a calculated amount representing:

*Free Cash Reserve (Total Assets - Fixed Assets - Loans - Pension) – Current Liabilities*

63. The GCB distinguishes between permitted purposes reserves 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 Approved Regulator / representative body permitted purposes activity as included in the s51 report included (chart 25) and in our annual accounts.

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

65. Extract from the Financial Statements y/e 31 March 2021

Table 18

<b>Allocation of General Reserves</b>				
	<b>Permitted purpose £000's</b>	<b>*Legal challenges £000's</b>	<b>Other General Reserves £000's</b>	<b>Total General Reserves £000's</b>
<b>Balance at 1 April 2019</b>	(1,222)	252	4,079	3,109
Surplus	2,429	-	218	2,647
Transfer to Pension Reserve	(1,000)	-	-	(1,000)
Transfer to Legal Challenges Reserve	(100)	100	-	-
Transfer for legal costs	78	(78)	-	-
<b>Balance 31 March 2020</b>	<b>185</b>	<b>274</b>	<b>4,297</b>	<b>4,756</b>
Surplus	3,941	-	656	4,597
Transfer to Pension Reserve	(1,150)	-	-	(1,150)
Transfer to Legal Challenges Reserve	(100)	100	-	-
Transfer for legal costs	74	(74)	-	-
Acquisition of NCI	-	-	(28)	(28)
<b>Balance 31 March 2021</b>	<b>2,950</b>	<b>300</b>	<b>4,925</b>	<b>8,175</b>

\*Legal Challenges 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 2020.

66. Our forecasts show the Permitted Purpose reserves will be within the target range from 2022 /2023 onwards.

67. The free cash reserve will also be within the target range from 2022 /2023 onwards.

The General Council of the Bar  
2022/23 PCF submission and Bar Council & BSB budget

Table 19

<b>Indicative GCB Reserves &amp; Free Cash Reserve : 2020/21 to 2027/28</b>								
	2020/21 Actuals	2021/22 Forecast	2022/23 Budget	2023/24 Indicative Fcst	2024/25 Indicative Fcst	2025/26 Indicative Fcst	2026/27 Indicative Fcst	2027/28 Indicative Fcst
Net Surplus/(Loss)	4,706	788	20	(40)	102	248	399	545
<b>Equity</b>								
Adj. Total Comprehensive Income Transferre	3,419	788	20	(40)	102	248	399	545
General Reserves B/f	4,297	4,925	5,161	5,167	5,155	5,186	5,260	5,380
Permitted Purpose Reserve B/f	185	2,950	3,502	3,516	3,488	3,559	3,733	4,012
Legal Challenges Reserve B/f	274	300	300	300	300	300	300	300
<b>Total Equity</b>	<b>8,175</b>	<b>8,963</b>	<b>8,983</b>	<b>8,943</b>	<b>9,045</b>	<b>9,293</b>	<b>9,692</b>	<b>10,237</b>
<b>Free Cash Reserves</b>	<b>3,820</b>	<b>4,512</b>	<b>5,383</b>	<b>5,653</b>	<b>6,064</b>	<b>6,675</b>	<b>7,331</b>	<b>8,185</b>

68. These forecasts will be revisited during next year's budgeting process, when the joint Finance Committee will consider the appropriate target range of reserves needed and the timeline for achieving it.

## BSB Budget

69. The BSB budget has been developed in alignment with the proposed BSB Strategic Priorities 2022-2025: <https://www.barstandardsboard.org.uk/uploads/assets/be75433d-8d46-4c27-b578cd490f49a95c/BSB-Strategy-consultation-Oct2021.pdf>

70. The total BSB budget includes the costs of the services (finance, IT and facilities) which the BSB shares with GCB. This is shown in Table 20.

## Direct Costs

71. The BSB Board approved the 2022/23 budget bid and agreed that it is consistent with the proposed BSB strategy for 2022-2025. The budget proposals were scrutinised in detail by the BSB SPR Committee. The subsequent regulatory budgets were presented to the Joint Finance Committee on 27 October 2021.

72. The costs of the BSB, excluding shared services, will be £8.233M, an increase on the 2020/21 budget of £1.244M (2021/22 was £6.989M), £1.103M staff and £141k non-staff. This is an 18% increase in operating costs.

73. The BSB has identified the need for additional resources. This is explained in the consultation documentation.

Table 20

<b>BSB 2022/23 Budget Summary</b>					
	<b>2021/22 Budget</b>	<b>2021/22 Forecast*</b>	<b>2021/22 Budget v Forecast Variance</b>	<b>2022/23 Budget</b>	<b>2022/23 Budget v 2021/22 Budget Variance</b>
	<b>£000's</b>	<b>£000's</b>	<b>£000's</b>	<b>£000's</b>	<b>£000's</b>
<b>Income</b>					
PCF	10,804	10,821	17	11,896	1,092
Fees and Charges	1,778	1,862	84	1,540	(238)
Share Corporate Income	107	107	0	559	452
<b>Subtotal Funding</b>	<b>12,689</b>	<b>12,790</b>	<b>101</b>	<b>13,995</b>	<b>1,306</b>
<b>Costs</b>					
Governance, Exec, Support & Communication	1,525	1,600	(75)	1,904	(379)
Strategy and Policy	982	973	9	1,230	(248)
Regulatory Operations	2,913	2,684	229	3,409	(496)
Legal Enforcement	1,569	1,514	55	1,690	(121)
<b>Subtotal Spend</b>	<b>6,989</b>	<b>6,771</b>	<b>218</b>	<b>8,233</b>	<b>(1,244)</b>
Shared Overheads	4,189	4,215	(26)	4,688	(499)
<b>Total Operating Spend</b>	<b>11,178</b>	<b>10,986</b>	<b>192</b>	<b>12,921</b>	<b>(1,743)</b>
DB Pension Fee	917	917	0	917	0
LSB Charge	595	629	(34)	629	(34)
<b>Non Operating cost</b>	<b>1,512</b>	<b>1,546</b>	<b>(34)</b>	<b>1,546</b>	<b>(34)</b>
<b>Total Cost</b>	<b>12,690</b>	<b>12,532</b>	<b>158</b>	<b>14,467</b>	<b>(1,777)</b>
<b>Net Surplus/(Loss)</b>	<b>(1)</b>	<b>258</b>	<b>259</b>	<b>(472)</b>	<b>(471)</b>

\*Forecast as at 29th October 2021

74. The BSB expects to raise £1.54M (£1.77M revised budget in 2021/22) in non-PCF income from other regulatory fees. The income is expected to fall as the fees charged to Authorised Education Training Organisations (AETO's) are being revised. The charges are based on the number of students on courses. Student numbers have been uncertain due to the introduction of Future Bar Training and the effects of Covid, and Brexit. The aim of the revision of the charges is to improve fairness and cost recovery.

#### 2021/22 BSB in Year Movements

75. Forecast income is expected to be higher due to additional PCF collected above forecast of £17k and greater regulatory income due to authorisations/entity regulation income exceeding budget by £84k.

76. Forecast Operating Costs are expected to be lower than budgeted due to savings in the Legal Enforcement Department of £55k, Strategy and Policy department of £9k and in Regulatory Operations of £229k (due to delays in Exam question writing due to the pandemic). This was offset by additional shared services costs of £26k due to recruitment of posts due to staff turnover and temp staff cover. The proportion of the LSB increase allocated to the BSB is £34k. This leaves a net saving in costs of £158k.

77. These figures need to be treated with caution as we still have a number of months before year end in March 2022.

### BSB Forecasts to 2025/26

78. The BSB is currently consulting on its strategy for 2022-25. The forecasts are broadly based on the proposed strategy. Detailed forecasts beyond 2022/23 will be subject to revision depending on the regulatory and economic landscape post Covid.

### BSB Capital Expenditure

Table 21

	2022/23	2021/22	Variance
<b>BSB Capital Spend</b>	<b>BSB</b>		
<b>Capital Projects</b>	<b>£</b>	<b>£</b>	<b>£</b>
<b>Total Direct Projects</b>	<b>259,000</b>	<b>32,880</b>	<b>(226,120)</b>
<b>Indirect Expenditure</b>			
Shared Services Capital Projects	449,141	535,113	85,972
Shared Services Capital Projects Recharge			
<b>Total Projects</b>	<b>708,141</b>	<b>567,993</b>	<b>(140,148)</b>

79. BSB direct capital expenditure has risen by £226k. The main projects are pupillage registration, case management, ethics project, and handbook review.

### Shared Services

80. Resources Group provides the shared services for the Bar Council and BSB, comprising IS, PMO, FM, HR (payroll), Finance and the Records team. These teams provide the back-office services to enable the regulatory and representation arms to function efficiently. The high-level plans for the functions shared between Bar Council and BSB have been identified. These plans include the costs of staffing, operations and capital expenditure in support of the strategic plans for both organisations.

81. Resources Group is proposing an increase in operating expenditure on the 2021/22 budget of £707k (13%). £515k of this relates to non-staff costs:

- a. £216k net increase in corporate overheads (£271k increase in finance overheads offset by savings in HR of £54k). The increase in corporate costs is largely due to the commencement of interest payments on the CBILS loan and the additional tax that would have to be paid on the investment fund.

- b. £34k additional IS costs to reflect inflationary increases and additional licensing costs to support the increase in FTEs.
- c. £37k increase in facilities costs to reflect a 3% inflationary increase on property costs.
- d. £227k additional depreciation costs to reflect capital programmes in 2021/22.

82. The increased charge to the BSB amounts to £499k. The BSB is recharged a proportion of the Resources Group costs based on the split of permitted purpose costs between the Bar Council and BSB.

## **Bar Council budget 2022/23**

83. The budgets of GCB fund the Representation, Policy and Services (RPS) representative body, include the functions of the Approved Regulator, and a share of the shared services costs for the business. These budgets are set in conjunction with the business planning process and align with the Bar Council Strategic Plan.

<https://www.barcouncil.org.uk/uploads/assets/86520690-7ab5-4cb1-93e63c26bc300c9f/Bar-Council-Strategic-Plan-2019-24.pdf>

84. Total income for the Bar Council will increase by £671k to £7.65M (£6.98M 2021/22). The Services function will raise £2.25M (£2.21M in 2021/22 budget). BRF forecast income has been budgeted to reduce by £110k. This reduction is due to the Certificate of Good Standing becoming a regulatory function and no longer being a benefit provided through BRF. This is based on the prudent assumption that Barristers who obtained a Certificate of Good Standing in 2021/22 through their BRF will no longer subscribe to the BRF in 2022/23. The net combined RPS income is forecast to increase by £155k. Services income is expected to increase by £198k due to an increase in business partners and training and events., whilst Representation and Policy income is expected to decrease by £42k.

85. The surpluses from these activities are used both to reduce the PCF burden and to enable the Bar Council to undertake activities outside of the permitted purposes.

86. A further £0.21M is received from the Inns of Court for specific representation activity.

87. The direct cost of the Bar Council will increase by £363k to £4.5M (Table 7) (£4.1M in 2021/22 final budget). BC staff costs will increase by 235k (an 8% increase). This includes an increase of 3.5% that has been built into salary budgets to cover salary inflation, recruitment and other staff costs (£72k). There will be an additional 2.6 FTE's (£111k), although this includes filling an existing vacancy and the reallocation of the HR Manager to the Executive budget from the Resources Group budget, as a result of the BSB setting up their own HR function. It also accounts for the announced increase in employers' National Insurance (£36k). Non-staff costs are expected to increase by £126k (9%). The Services portfolio is expected to increase expenditure by £153k due to an increase in training and events (more than offset by increased income). Representation and Policy costs will reduce by £27k.

88. The 2022/23 budget proposals for the Bar Council are shown in Table 22.

The General Council of the Bar  
2022/23 PCF submission and Bar Council & BSB budget

Table 22

<b>Bar Council 2022/23 Budget Summary</b>					
	<b>2021/22 Budget</b>	<b>2021/22 Forecast*</b>	<b>2021/22 Budget v Forecast Variance</b>	<b>2022/23 Budget</b>	<b>2022/23 Budget v 2021/22 Budget Variance</b>
	<b>£000's</b>	<b>£000's</b>	<b>£000's</b>	<b>£000's</b>	<b>£000's</b>
<b>Income</b>					
<b>Income</b>	2021/22 Budget	2021/22 Forecast*		2022/23 Budget	Variance to Budget
PCF	4,514	4,521	7	4,951	437
Representation Income	214	214	0	214	0
Services to the Profession	2,210	2,174	(36)	2,255	45
Share Corporate Income	45	45	0	234	189
<b>Subtotal Funding</b>	<b>6,983</b>	<b>6,954</b>	<b>(29)</b>	<b>7,654</b>	<b>671</b>
<b>Costs</b>					
Representation Direct Costs	3,350	3,218	132	3,558	(208)
Shared Overheads	1,336	1,344	(8)	1,530	(194)
<b>Total Representation</b>	<b>4,686</b>	<b>4,562</b>	<b>124</b>	<b>5,088</b>	<b>(402)</b>
Costs of Services	845	800	45	1,000	(155)
Shared Overheads	415	416	(1)	428	(13)
<b>Total Services</b>	<b>1,260</b>	<b>1,216</b>	<b>44</b>	<b>1,428</b>	<b>(168)</b>
<b>Direct Bar Council Costs</b>	<b>4,195</b>	<b>4,018</b>	<b>177</b>	<b>4,558</b>	<b>(363)</b>
<b>Shared Overheads</b>	<b>1,751</b>	<b>1,760</b>	<b>(9)</b>	<b>1,958</b>	<b>(207)</b>
DB Pension Fee	383	383	0	383	0
LSB Charge	249	263	(14)	263	(14)
<b>Non Operating cost</b>	<b>632</b>	<b>646</b>	<b>(14)</b>	<b>646</b>	<b>(14)</b>
<b>Total Cost</b>	<b>6,578</b>	<b>6,424</b>	<b>154</b>	<b>7,162</b>	<b>(584)</b>
<b>Net Surplus/(Loss)</b>	<b>405</b>	<b>530</b>	<b>125</b>	<b>492</b>	<b>87</b>

\*Forecast as at 11th November 2020

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

### 2021/22 Bar Council in-Year Movements

90. Forecast income is expected to be £36k lower due to events being cancelled, mitigated by additional PCF income.

91. Forecast operating costs for Services and Representation are lower (savings of £45k and £132k respectively) due to cancelled and rescheduling of events. There were additional shared services costs of £9k due to recruitment of posts due to staff turnover and temp staff cover. The proportion of the LSB increase allocated to the Bar Council is £14k. This leaves a net saving in costs of £154k.

92. These figures need to be treated with caution as we still have number of months before the year end in March 2022.

## Bar Council Capital Expenditure

Table 23

	2022/23	2021/22	Variance
<b>Bar Council Capital Spend</b>	<b>Bar Council</b>		
<b>Capital Projects</b>	<b>£</b>	<b>£</b>	<b>£</b>
<b>Total Direct Projects</b>	<b>90,000</b>	<b>191,510</b>	101,510
<b>Indirect Expenditure</b>			
Shared Services Capital Projects	201,859	240,497	38,638
<b>Total Projects</b>	<b>291,859</b>	<b>432,007</b>	140,148

93. The Bar Council direct capital expenditure has fallen by £101k. The main projects are, pupillage gateway, and online training.

## Application of PCF to permitted purposes

94. 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 27. The value of this apportionment is shown in Table 24 below.



The General Council of the Bar  
2022/23 PCF submission and Bar Council & BSB budget

Table 24

Analysis of Representative costs between Permitted and Other Purposes							
	Direct Costs	2022/23 Budget Support Costs	Contribution	Total Costs	Max Permitted Purposes ("P.P.")	Permitted Purposes Activities	Other Purposes
	£000	£000		£000		£000	£000
<b>Analysis of Representative Permitted Purposes Costs</b>							
Approved Regulator: Corp.	1,140	522		1,662	90%	1,496	166
Donations	214	-		214	100%	214	-
<b>Approved Regulator Subtotal</b>	<b>1,354</b>	<b>522</b>	<b>-</b>	<b>1,876</b>		<b>1,710</b>	<b>166</b>
<b>Representation:</b>							
<i>Equality, Diversity &amp; CSR</i>	398	182		580	90%	522	58
<i>Policy Directorate</i>	458	210		668	100%	668	-
<i>EU Law</i>	144	66		210	100%	210	-
<i>International</i>	353	162		515	80%	412	103
<i>Law Reform &amp; Regulatory &amp; Ethics</i>	174	80		254	100%	254	-
<i>Remuneration &amp; Legal Practice</i>	243	111		354	95%	336	18
<i>Communications</i>	434	197		631	75%	473	158
<b>Subtotal Representation</b>	<b>2,204</b>	<b>1,008</b>	<b>-</b>	<b>3,212</b>		<b>2,875</b>	<b>337</b>
<b>Total</b>	<b>3,558</b>	<b>1,530</b>		<b>5,088</b>		<b>4,585</b>	<b>503</b>
<i>2021/22 Budget</i>	<i>3,254</i>	<i>1,511</i>		<i>4,765</i>		<i>4,301</i>	<i>464</i>

95. Support Costs represents the share of Resources Group (overhead costs) detailed in table 25 in section IV below.

### III. Consultation on the PCF

#### Consultation Process

96. The Joint Finance Committee on the 27 October 2021) reviewed the proposal for an increase in the PCF fee level to meet the anticipated expenditure in 2022/23. The proposal to increase the PCF fee level and the proposed budget for 2022/23 was put before the profession between 30 November and 14 January 2022. The full consultation document, including an exchange of letters between the Bar Council in its representative role, and the BSB, under IGR Rule 3, is at the link below:

<https://www.barcouncil.org.uk/uploads/assets/41888f44-91de-4a12-82a40eafc5ecbf01/General-Council-of-the-Bar-Budget-and-PCF-Consultation.pdf>

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

- The BSB sent out its Regulatory Update on 13 December 2021 inviting comments from registered and unregistered barristers. The following statistics relate to the December Regulatory Update:
  - 17,480 emails were sent out to the Registered (i.e., practising) Bar
  - 7,235 Registered Bar emails were confirmed as being opened - a 42% open rate
  - 675 emails were sent out to the unregistered (i.e. non-practising) Bar
  - 298 unregistered Bar emails were confirmed as being opened - a 44.48% open rate
  - there were 480 page views (391 unique) to the Regulatory Update webpage between 1 December 2021 and 7 January 2022.  
<https://www.barstandardsboard.org.uk/for-barristers/regulatory-updates.html>

98. Additionally, the consultation document has been available on the BSB's website at <https://www.barstandardsboard.org.uk/news-publications/consultations.html> and there have been 242 page views on the consultation webpage between 1 December 2021 and 7 January 2022 (189 unique views).

- The BSB posted the consultation link to its 27,158 Twitter, its 8,163 LinkedIn and its 1,520 Facebook followers on 10 December 2021 and 14 December 2021 and put a notice on MyBar, with a link to the consultation, in December 2021.
  - 10 December 2021: on Twitter the PCF consultation post received 1,434 impressions, 26 engagements, 9 detail expands, 6 link clicks, 2 likes, 2 profile clicks, 2 retweets, 5 media engagements and a 1.8% engagement rate. On LinkedIn the PCF post received 213 impressions, 8 clicks, a 3.76% click through rate and engagement rate. On Facebook the PCF post reached 58 people.
  - 14 December 2021: on Twitter the PCF post received 492 impressions, 3 engagements, 3 link clicks and a 0.6% engagement rate. On LinkedIn the PCF post received 206 impressions, 3 clicks, a 1.46% click through rate, 1 reaction, and a 1.94% engagement rate. On Facebook the post reached 83 people, 2 likes and 2 link clicks.

99. The Bar Council separately included a link to the consultation and messaging inviting responses to it in three editions of the Bar Council's fortnightly e-newsletter, BarTalk in the 2, 6, 15, 17 December editions. The links were placed prominently in the newsletter (top two spots) to increase engagement.

- Each edition of BarTalk was sent to more than 17,700 recipients (including the whole of the practising Bar), with over 50% of recipients reading the newsletter and, in total 276 people downloaded the consultation from the newsletter.

100. The PCF fee level and budget proposal for 2021/22 was widely disseminated to the legal press; with the Law Society Gazette and Legal Futures covering the story. The new Chair of the Bar referenced it in his inaugural speech in early December.

101. Chairs of Specialist Bar Associations, Circuit Leaders and Chairs of the Bar Council's committees were also encouraged to respond.

102. Traffic to the consultation on the Bar Council's website was high, with 424 views of the consultation from when it was posted on the website.

103. We engaged with a diverse range of barristers in representative groups including:

- Northern Circuit
- North Eastern Circuit
- Western Circuit
- South Eastern Circuit
- Wales and Chester Circuit
- Midland Circuit
- Middle Temple
- Inner Temple
- Lincoln's Inn
- Gray's Inn
- Bar Council General Management Committee
- Bar Council Race Working Group
- Bar Council Young Barristers' Committee
- Bar Council Equality, Diversity and Social Mobility Committee
- Bar Council International Committee
- Bar Council Employed Barristers' Committee
- Bar Council IT Panel
- Bar Council Remuneration Committee
- Bar Council Law Reform Committee
- Bar Council Ethics Committee
- Bar Council European Committee
- Bar Council Legal Services Committee
- Bar Council Bar Services Committee
- Bar Council Pro Bono and Social Responsibility Committee
- Bar Council Information Technology Panel
- Bar Council Alternative Dispute Resolution Panel
- Bar Council Direct Access Panel
- Bar Council Regulatory Review Working Group
- Bar Council Future Relations Working Group (now International Trade Working Group)
- Bar Council Money Laundering Working Group
- Bar Council Race Working Group
- Chancery Bar Association
- Bar Association for Commerce, Finance and Industry (BACFI)

- London Common Law and Commercial Bar Association
- Criminal Bar Association
- Family Law Bar Association
- Property Bar Association
- Professional Negligence Bar Association
- Intellectual Property Bar Association
- Employment Law Bar Association
- Bar Association for Local Government and the Public Service
- Revenue Bar Association
- Admiralty Bar Association
- Northern Chancery Bar Association
- Midland Chancery and Commercial Bar Association
- Planning and Environmental Bar Association
- Bar European Group
- Technology and Construction Bar Association
- Northern Circuit Commercial Bar Association
- Commercial Bar Association
- Personal Injuries Bar Association
- Public Access Bar Association
- FDA
- Administrative Law Bar Association
- Court of Protection Bar Association

## Consultation Responses

### 104. Formal written responses

- In addition to all the feedback we received on our consultation through events, focus groups and online engagement, we received 107 formal email responses representing 8,037 barristers, including many from Bar Council Committees with broad representation, Specialist Bar Associations, 5 out of 6 Circuits, chambers and individual self-employed and employed barristers.

### 105. Summary of consultation responses - budget and practising certificate fee

- The overwhelming majority of the feedback was negative amounting to 7,946 barristers. There were 91 individual barristers accepting of the budget and PCF increase, but certainly not with enthusiasm.

106. The following anonymised extracts are representative of the general themes conveyed by those against the increase:

- “I see no justification for the significant staff cost increases proposed”.
- “It is of real concern that the BSB has not seen the need to have a fully explained and costed proposal...Such a fundamental failure calls into question the reliance that can be placed on the “justification” and figures produced and the ability of the BSB to manage and operate the proposed increased resources.”
- “A fully costed business case, including consideration of other options and
- taking into account the possibility of postponing other less urgent work to reduce costs, has not been produced or, if it has, it has not been published.”

- “The business case for increased expenditure and recruitment by the BSB is not made out. The BSB is not meeting its KPIs and should be expected to do so on the basis presently mandated before seeking to expand its operations.”
- “The BSB has failed to produce a thorough, convincing business case for the rapid and extraordinary increase in BSB staff numbers; the exceptional increase in staff numbers is not reasonable or proportionate. The concomitant substantial increase in PCF is similarly not reasonable or proportionate.”
- “As regards the increase in workload relating to complaints made against barristers, we note the observations made to the Bar Council that up to 30% of overall casework related to unregulated barristers. This is not made clear in the Proposal, nor does it address whether and how steps could be taken to reduce the cost of this to the regulated profession. Therefore, we cannot support the proposal for an increased headcount consequential to the increased caseload at the BSB.”
- “The BSB seems to spend about 30% of its time in dealing with issues presented by unregistered barristers (of which there are about 70,000). This work is, in effect, funded by those of us who are regulated.”
- “It is troubling to learn that 30% of the BSB’s “Reports” (about barristers’ conduct) seem to be generated by 70,000 unregistered barristers. A significant amount of the BSB’s activities seem to relate to “Authorisations and Waivers” in relation to the various academic and practicing requirements of the bar – the fees charged by the BSB for these dispensations are expressed on its website to be cost-based, so presumably should not be funded through the PCF.”
- “The BSB concedes to spending about 30% of its time in dealing with issues presented by unregulated barristers, which has to be funded by those of us who are regulated. It is quite apparent that rather than taxing the regulated barristers more, the issue of unregulated barristers taking up a third of BSB time needs to be addressed urgently.”
- “I am concerned to read that the BSB spends about 30% of its time dealing with issues presenting by unregulated barristers. There is an inherent unfairness to the regulated profession in having to in effect fund this.
- “This is a substantial and (as far as I can recall) unprecedented increase in the budget and the PCF at a most unwelcome time when fees and receipts are suffering constant downward pressures.”
- “I think such an increase is absolutely impossible to justify in the present climate – after a two-year pandemic when many barristers are struggling, including as a result of long-term cuts to public funding.”
- “Increases in professional fees at this point will not only have a direct financial impact on members but they will also undoubtedly send out the wrong message. That message will be that when we were in trouble and our livelihoods were in jeopardy there was no help but as soon as we are starting to get back on our feet we are being asked for greater contributions to deal with those who fall foul of the rules. That seems like a difficult sell.”
- “The BSB must think again and with caution. The profession requires a strong regulator yes, but also one that listens. The time now is to listen and reconsider the budget call that has been unreasonably made. We call upon the BSB to reconsider the budget in the light of the professions real concerns.”
- “On the information available it appears that the primary reason for the increase is a 40% increase in staff over the last few years. Given the way in which Chambers have had to cut back during the course of the pandemic and in light of the difficulties at the criminal bar this seems an inexplicable increase.”
- “The proposed increase comes at a time when the funding of the publicly funded Bar is itself falling, so an increase in outgoings is even more oppressive in such circumstances.”

- “There needs to be a more equitable distribution of the burden of funding the Bar Council/BSB.”
- “I think the increase in budget of over 14% sought by the BSB is entirely unwarranted. Part of the justification for the increase is the BSB's desire to promote diversity. It is difficult to see how this falls within its regulatory remit, but even if it did, increasing fees in this way is likely to have precisely the opposite effect to that intended.”
- “I'm not sure the BSB (or the GCB, for that matter) really has a full grasp of how badly some parts of the profession are faring at the moment. The BSB refers to its staff being overworked and lacking work/life balance. The criminal Bar in particular is at breaking point.”
- “The publicly funded Bar has had little support from any quarter during the pandemic. Practitioners are reducing their outgoing to match a reduction in the possibility of work in the 2020 lockdown, with ongoing limitations upon the listing of trials and reduced fees generally (at least in real terms). Our governing bodies should do likewise.”
- “The proposal is framed as a necessary response to financial pressure, but in reality, it appears to be largely due to a deliberate strategic choice to increase staffing levels and costs substantially. That is very difficult to understand at a time when the individuals regulated have seen significant reductions in income, and do not have the luxury of simply asking their customers to pay more.”
- “To meet arguments about inefficiency by simply raising staff levels and pay levels at a time when everyone else is and will be under considerable financial pressure is inappropriate.”
- “I also share the unease felt by many about what can best be described as “mission creep” on the part of the BSB. For example, I see that the BSB wishes to do more work to “include the continuing challenges of promoting diversity, sustaining high standards and improving access and transparency for consumers.” The BSB is a regulatory not a promotional body.”
- “I consulted with all the members of my chambers who unanimously were against any increase in the PCF. The general consensus emerged that the Bar Council and the CBA (and for that matter the Circuits and the Inns) have been able to run their finances in difficult times at a sensible level for the last three years making substantial savings and suitable adjustments (giving up expensive offices but retaining key personnel). In contrast they noted that the BSB continues to expand.”
- “The BSB has not shown any adequate case for the hiring of yet further staff at the Bar's expense. There is no reason to believe that the supposed increase in complaints is a permanent trend. Instead, the BSB should carry out a fundamental re-examination of the way in which it exercises its regulatory functions.”
- “The tendency of the BSB to grow ever larger has resulted in a lack of focus and disconnection from the practicing Bar. Its growth has actually been counterproductive.”
- “It does seem to us that the BSB is perhaps trying to expand beyond its remit. It is not obvious why numerous reports about the same incident should justify very significant extra BSB work if adequate triaging was in place.”
- “With respect, the BSB should concentrate on getting the basics right before seeking to spend vast sums of the profession's money on expanding its remit unnecessarily.”
- “Reading the monthly e-mail updates from the BSB it appears to me that the BSB has fallen into the trap of regulatory overreach...Regrettably, I think there is regulation for regulations' sake, which is contrary to the economic wellbeing of every industry or profession where this has been tried in the past.”
- To me, the increased number of BSB employees in the past few years is solid evidence of this overreach - little has happened to the Bar itself or the court/tribunal system in which we operate in that period, so the change is in the Regulator not the regulated.

- “The budget should reflect the times we live in. It should be far more efficient and should recognise the fact that the level of dissatisfaction at the bar has never been higher.”
- “I would support a focus on core tasks done well at more efficient cost”. The BSB must refocus its efforts...as a light touch regulator of the profession at this difficult time and I am sorry to say... reign in some of what may only be seen as vanity projects.”
- “I think that the BSB could and should make better use of the money that is already supplied to them and should look to tailor their activities to focus on areas within the formal remit of the BSB with an eye to proportionate regulation.”

107. The following anonymised extracts are representative of the general themes conveyed by those who accept the need for an increase:

- “Reluctantly I agree as it would appear there are limited options otherwise. I endorse the decision to request further detail from the BSB as to their budget increases as I am not sure that the increase in budget is fully justified.”
- “We do agree but we are concerned that an increase across the board and taking the lower earners into the equation will adversely affect those who are struggling.”

### **Summary of how we have taken responses into account**

108. The responses across the profession are overwhelmingly against this increase in budget. The following extract from the responses echoes the GCB, as the representative body, sentiments on the matter:

“The BSB must think again and with caution. The profession requires a strong regulator yes, but also one that listens. The time now is to listen and reconsider the budget call that has been unreasonably made. We call upon the BSB to reconsider the budget in the light of the professions real concerns.”

109. The Bar Standards Board has always been conscious of the impact of its proposed budget on the Practising Certificate Fee. Accordingly, the Bar Standards Board considered the responses to the PCF consultation at its meeting on 27 January and took note of the views expressed by those barristers who had responded to the consultation. After reviewing the consultation responses, the Board re-confirmed the need to strengthen the capabilities of the Bar Standard Board to meet the challenges ahead and, accordingly, the budget and PCF changes adopted and submitted to the LSB. The BSB Director General subsequently attended the Bar Council meeting on 29 January to explain the Board’s case for the budget increase and to answer questions.<sup>3</sup>

110. The GCB at a meeting of the Bar Council on 29 January reaffirmed that it did not consider that a proper case had been made by the BSB to substantially increase costs. My covering letter to the PCF submission dated 24 January 2022 summarises the outcome of the consultation, gives the views of the Bar Council as the *representative body* and seeks the assistance of the LSB in determining whether the BSB’s budget is ‘reasonable’, as we have been unable to draw that conclusion based on the evidence we have seen. The information at annexes 3,4 and 5, much of which we had not been privy to before, does not change that view at all. There is still no Programme Brief or Benefits Realisation Plan for the

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<sup>3</sup> Paragraph 109 was written by the DG of the BSB

huge uplift in staff. The BSB has its own Programmes team, despite this being also being a shared service, which I would have expected to manage such a major change programme.

## **IV. Permitted Purposes**

### **Allocation of PCF to Permitted Purposes**

111. Table 25 below shows the allocation of PCF to regulatory and representative permitted purpose activities.

112. 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 decrease in the absolute amount of PCF forecast is due to the Covid pandemic.

113. All BSB activity is for permitted purposes. In 2022/23, the level of PCF income applied to BSB activities rises to £11.89M from £10.8M in 2021/22 (an increase of £1M.).

114. In 2022/23, the level of PCF income applied to Bar Council representative permitted purpose activities rises to £4.95M (up £437k, on 2021/22). Further details of the functional split of representative permitted purposes are shown in tables 24 and 25. The allocation of PCF to permitted purposes shown in table 25 is based on the proportion of permitted purpose spend in the regulation and representative bodies.



The General Council of the Bar  
2022/23 PCF submission and Bar Council & BSB budget

Table 25

s51 Report on 2022/23 - Allocation of PCF to Permitted Purposes

	Regulation (BSB)	Representation	Services	Revenue Total	Capital Spend	Capital Spend	Total Funding & Spend
<b>Total costs breakdown by source</b>	0.6982	0.3018					
Direct Costs	8,233	3,558	1,000	12,791			12,791
Share of Resources Group	4,688	1,530	428	6,646			6,646
Project Spend	0	0		0	910	90	1,000
LSB/OLC	629	263		892			892
DB Pension Scheme	917	383		1,300			1,300
<b>Total Spend - Funding Required</b>	<b>14,467</b>	<b>5,734</b>	<b>1,428</b>	<b>21,629</b>	<b>910</b>	<b>90</b>	<b>22,629</b>
Analysed between Type:	Regulatory Permitted Purposes	Other Permitted Purposes	Other Purposes		Other Permitted Purposes	Other Purposes	
Permitted Purposes	14,467	5,231		19,698	910		20,608
Not Permitted Purposes		503	1,428	1,931		90	2,021
	100%	91%	9%	21,629			22,629
<b>Funded by:</b>							
<b>PCF</b>	11,896	4,951	0	0	0	0	16,847
<b>Direct Income</b>							
Regulatory Fees & Charges	1,540			1,540			1,540
Services To Members			2,255	2,255			2,255
Other Contributions		214		214			214
Other Administrative Income	559	0	234	793			793
<b>Subtotal Direct Income</b>	<b>2,099</b>	<b>214</b>	<b>234</b>	<b>4,802</b>	<b>0</b>	<b>0</b>	<b>4,802</b>
Cross Subsidy from Services to Members	0	467	360	(827)	0	0	0
<b>Total Funding</b>	<b>13,995</b>	<b>5,632</b>	<b>594</b>	<b>21,649</b>	<b>0</b>	<b>0</b>	<b>21,649</b>
<b>Net Surplus/(Loss)</b>	<b>(472)</b>	<b>401</b>	<b>91</b>	<b>0</b>	<b>20</b>		<b>20</b>
<b>Surplus/(Loss) Analysed between source:</b>							
Permitted Purposes	(472)	401		(71)	0		(71)
Not Permitted Purposes			91	91		0	91
							20
<b>Cashflow : Add / Deduct</b>							
Permitted Purposes-Depreciation	894	272		1,166			
Not Permitted Purposes-Depreciation			20	102			
Permitted Purposes-CBILS Loan Capital Repayments	(670)	(287)		(957)			
<b>Cash Inflow/(Outflow) Analysed between source:</b>							
Permitted Purposes	(248)	386		138	910		(772)
Not Permitted Purposes			111	193		90	103
<b>Net Cash Outflow</b>							<b>(669)</b>

## PCF Application: 2022/23 operating budgets for GCB (Bar Council and BSB)

115. The operating budget proposals for the organisation as a whole are summarised below.

### Budget Summary

116. The General Council of the Bar's 2022/23 operating expenditure is expected to increase by £2,313k (14%) compared to the 2021/22 budget. Total GCB costs increase by 12% (£2,361k).

### Expenditure

117. The reasons for the increase in costs are detailed in each of the business areas but comprise:

- Staff costs have increased by £1,530k, 16% increase on the 2021/22 budget due to additional FTE's (see the BSB section, and out of cycle salary increases due to market pressures and historic commitments. This also includes the 3.5% contingency for staff pay rises, recruitment and out of cycle increases).
- Non-staff costs have increased by £783k, an 10% increase on the 2020/21 budget.

The General Council of the Bar  
2022/23 PCF submission and Bar Council & BSB budget

- LSB / OLC costs have increased by £48k a 5.7% increase on the 2020/21 budget.

Table 26

<b>BSB+BC 2022/23 Budget Summary</b>					
	<b>2021/22 Budget</b>	2021/22 Forecast*	2021/22 Budget v Forecast Variance	<b>2022/23 Budget</b>	2022/23 Budget v 2021/22 Budget Variance
	<b>£000's</b>	<b>£000's</b>	<b>£000's</b>	<b>£000's</b>	<b>£000's</b>
<b>Income</b>					
PCF- BSB	10,804	10,821	17	11,896	1,092
PCF- BC	4,514	4,521	7	4,951	437
BSB Fees and Charges	1,778	1,862	84	1,540	(238)
BC Representation Income	214	214	0	214	0
BC Services to the Profession	2,210	2,174	(36)	2,255	45
Corporate Income	152	152	0	793	641
<b>Total income</b>	<b>19,672</b>	<b>19,744</b>	<b>72</b>	<b>21,649</b>	<b>1,977</b>
<b>BC Total costs</b>	<b>6,578</b>	<b>6,424</b>	<b>154</b>	<b>7,162</b>	<b>(584)</b>
<b>BSB Total costs</b>	<b>12,690</b>	<b>12,532</b>	<b>158</b>	<b>14,467</b>	<b>(1,777)</b>
<b>Total cost</b>	<b>19,268</b>	<b>18,956</b>	<b>312</b>	<b>21,629</b>	<b>(2,361)</b>
<b>Net Surplus/(Loss)</b>	<b>404</b>	<b>788</b>	<b>384</b>	<b>20</b>	<b>(384)</b>

\*Forecast as at 29th October 2021

A further breakdown of costs is shown in APPENDIX 5

### 2021/22 GCB in Year Movements

118. The year end forecast GCB surplus has increased from the budgeted amount (£404k) to £788k an increase of £384k. The increase in the surplus is due to the following:

- Total income has increased by £72k this is due to late PCF renewals £24k, additional regulatory income £84k mitigation a reduction in income from the profession for the Bar Council of £36k.
- Cost savings from the Bar Council and BSB amount to £312k (Bar Council £154k and BSB £158k).

119. These figures need to be treated with caution as we still have number of months before the actual year end in March 2022.

## **Allocation of PCF to non-regulatory Permitted Purposes activities**

### **Introduction**

120. We have reviewed the representative activities of the Bar Council to determine the extent to which they 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**

121. 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 33-37.

122. A proportion of the staffing resource within the representation teams supports non-Permitted Purposes activity and is funded independently. Table 27 shows the proportion of team resources applied to each Permitted Purpose and Table 24 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.

123. 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 25.

## **Description of Representative Activity by Function**

### **Equality, Diversity, Inclusion, Education & Training and Social Mobility**

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

- a. Matters to do with the 'training' and 'education' of barristers and those wishing to become barristers (section 51(4)(a));
- b. 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
- c. Promoting equality, diversity and inclusion (including social mobility) in the profession. Specific programmes cover (i) access, (ii) retention and (iii) progression. Programmes include but are not limited to Bar Placement Schemes throughout England & Wales (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.
- d. We have developed a detailed programme of work focused on race at the Bar. Both developing and embedding that work, which falls squarely within the objectives of the

Equality Act, will involve a considerable but necessary amount of work. Our work will ensure that (i) our existing D&I work programme incorporates race across the board and (ii) specific workstreams relating to race at the Bar are further developed. In terms of training, we are investing time rolling out a Race Awareness Training product to supplement existing E&D awareness training.

- e. The team is also responsible for leading on all work in relation to the Young Bar and the Employed Bar: a broad and growing remit.

Outside of permitted purposes:

125. 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)**

126. 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. The focus of our activity continues to relate to the UK's departure from the EU and maintaining constructive dialogues with the EU. 60% of our Brussels work, falling under section 51 (4) (f), enables the Bar Council to:

- a. 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;
- b. Draw attention to EU-wide consultation exercises and related initiatives; and
- c. 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. This work continues in earnest following the UK's departure from the EU from the perspective of an important third country. The UK has long contributed to and indeed led the development of many aspects of EU law and will continue to influence developments as a key third country and through expert stakeholders like the Bar Council from 2021 onwards.

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

### **International**

128. The International Team exists to:

- a. 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 and promotion of the international rule of law. It also acts to maximise international business opportunities for the Bar.

- b. Provide policy expertise and intelligence to the organisation across the range of international interests of the Bar including trade (this is particularly the case post-departure from the EU), rule of law (this continues to create a considerable amount of work in light of the impact of Covid-19 on the rule of law) and international issues.
- c. 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 (CCBE) and the International Bar Association).
- d. 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 Royal Commonwealth Society or UK government).
- e. One member of the International team currently spends a significant amount of time working on matters related to the UK's departure from the EU 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 and DTI Trade Advisory Group for Professional Advisory Services.

Outside of permitted purposes:

129. On occasion but clearly less so due to the ongoing pandemic, 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, 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. However, due to Covid-19 much of this work has been put on hold since inward and outward travel is advised against, and we are spending more time working on projects related to the rule of law and the UK's departure from the EU. Therefore, up to 10% of the resources of the international function this year are funded by other sources.

**Law Reform, Regulatory and Ethics Issues**

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

- a. Education and provision of leadership to the profession on key regulatory changes. These include communication with the Legal Services Board, Bar Standards Board and other key stakeholders including the Competition and Markets Authority, the monitoring of changes to the regulatory environment for barristers, chambers and other business models and educational work on practical issues on establishing entities and Alternative Business Structures. This work falls under section 51 (4) (a).
- b. Practical Advice and support on practice management, including drafting practice management guidance for the Bar and arranging practice management seminars on both new areas of interest and updates on existing matters. This work falls under section 51 (4) (a) (ii).

- c. 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 through LRC's annual law reform essay competition. This work falls under section 51 (4) (c), 51 (4) (e) and 51 (4) (f).
- d. 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. This work falls under section 51 (4) (a) (i).

### **Remuneration and Legal Practice**

131. 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' broad court reform programme and the justice system's response to the Covid 19 pandemic. The team's work falls under sections 51 (4) (a), 51 (4) (a) (i), 51 (4) (a) (ii), 51 (4) (c) and 51 (4) (f).

132. 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 of novel approaches to legal aid funding and engaging with the Ministry of Justice on fee schemes. The team also focuses on family and civil justice, including the promotion of access to justice in these areas of public interest. Particularly in relation to civil, the team continues to work and advise on the ongoing impacts of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

Outside of permitted purposes:

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

### **Research function**

134. Our research function is fully up and running and is helping the Bar Council to both identify research needs and to gather robust data and evidence. The research function is central to much of our work and allows us to produce evidence-based policy positions and papers. Examples of projects the research function is involved in include research in relation to litigants in person, the Bar Council's Working Lives Survey, research supporting law reform work, research to assist with our practice management work, aspects of the court reform programme and supporting our regulatory issues work.

### **Communications Function**

135. The work of the Communications function includes:

- a. Activities on behalf of the Approved Regulator function and complementary to the BSB regulatory communications function.
- b. 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:

136. 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

137. 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

138. 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 27.

Table 27

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	<b>Permitted Purposes Subtotal</b>	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
<i>Equality, Diversity &amp; CSR</i>	30%	30%	30%				<b>90%</b>	10%
<i>EU Law</i>				40%		60%	<b>100%</b>	
<i>International</i>						80%	<b>80%</b>	20%
<i>Law Reform, Regulatory &amp; Ethics</i>	25%	20%	15%	25%	10%	5%	<b>100%</b>	
<i>Remuneration &amp; Legal Practice</i>	15%	15%	15%	45%		5%	<b>95%</b>	5%
<i>Communications</i>	15%			30%	15%	15%	<b>75%</b>	25%
<i>Corporate</i>	15%	15%	15%	15%	15%	15%	<b>90%</b>	10%

## V. Transparency of PCF information to fee-paying members

### Consultation:

139. We have been as open and transparent as possible with the profession. The full consultation document, including an exchange of letters between the Bar Council in its representative role, and the BSB, under IGR Rule 3, is at the link below:

<https://www.barcouncil.org.uk/uploads/assets/41888f44-91de-4a12-82a40eafc5ecbf01/General-Council-of-the-Bar-Budget-and-PCF-Consultation.pdf>

### PCF Application: LSB and OLC recharges 2022/23

140. The forecast charges for 2022/23 are £892k, £48k higher than in 2021/22 (£844k). No significant changes to PCF levels are required to meet this target.

### PCF Application: Defined Benefit Pension Scheme (DB scheme)

141. 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.

142. No changes to PCF arrangements in respect of the DB scheme are to be made for 2022/23. The DB scheme recovery plan is formally reviewed every three years with the latest review being in September 2021. We have not yet received the draft valuation. When the draft valuation is received, we will have until 31 December 2022 to agree the valuation with the Pension Trustees and the terms and timing of pension contributions needed for the expected recovery plan.

143. 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

144. 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

145. The impact of the proposed PCF increase 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 EIA has been updated for 2022/23 and is shown in ANNEX 1. The aim of the EIA is to ensure that the GCB approach to the PCF does not have a disproportionate / adverse impact on those with protected characteristics.



- a. In order to mitigate the impact of the PCF increase there will be no increase in PCF for Band 1. It will remain at £100. Band 1 contains people newly joining the profession and those returning from maternity / paternity. Band 1 contains those earning from £0 to £30k. This band contains the highest proportion of women, ethnic minorities, disabled and those aged 25-34 years old.
- b. It is not anticipated that there will be any negative effects from these changes to PCF.

146. 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.

147. The Equality Impact Assessment was reviewed to take account of the consultation responses. Many of the consultation responses mentioned the 9% increase. The GCB took the decision to apply the overall 4.5% increase in a way that tried to mitigate the effects to those in the lowest income bands. The table below shows that those in the lowest income band (0-£30k) had no increase. We know that the composition of those with earnings in bands 1-6, for whom the increase in fee have been restricted to 3%, has the highest proportion of women, ethnic minority backgrounds, disability and those aged 25-34. For barristers earning £30k-£60k the increase is £7 for those earning £60-£90k the increase is £15.

Income band	Range	Baseline PCF	Revised PCF	Increase	PCF rate compared with baseline
<b>Band 1</b>	<b>£0 - £30,000</b>	<b>£ 100</b>	<b>£100</b>	<b>£0</b>	<b>0%</b>
<b>Band 2</b>	<b>£30,001 - £60,000</b>	<b>£ 246</b>	<b>£253</b>	<b>£7</b>	<b>3%</b>
<b>Band 3</b>	<b>£60,001-£90,000</b>	<b>£ 494</b>	<b>£509</b>	<b>£15</b>	<b>3%</b>
<b>Band 4</b>	<b>£90,001 - £150,000</b>	<b>£ 899</b>	<b>£926</b>	<b>£27</b>	<b>3%</b>
<b>Band 5</b>	<b>£150,001-£240,000</b>	<b>£ 1,365</b>	<b>£1,406</b>	<b>£41</b>	<b>3%</b>
<b>Band 6/1</b>	<b>£240,001-£350,000</b>	<b>£ 1,850</b>	<b>£1,906</b>	<b>£56</b>	<b>3%</b>
Band 6/2	£350,001 - £500,000	£ 1,850	£2,017	£167	9%
Band 7/1	£500,001 - £750,000	£ 2,500	£2,575	£75	3%
Band 7/2	£750,001 - £1,000,000	£ 2,500	£2,725	£225	9%
Band 8/1	£1,000,001 - £1,500,000	£ 3,000	£3,090	£90	3%
Band 8/2	£1,500,001 and over	£ 3,000	£3,270	£270	9%

148. For those barristers that face a 9% increase (income bands over £350k) 84% are white males, 1 % had a disability and 79% were in the 35-65+ age bracket. Based on the 2021 AtP results of those in bands 6 and 7, more barristers went up an income band compared with the previous year. Those in the Commercial and Financial Services were more likely to declare a higher income band than those in other areas of practice.

149. It is generally thought that those who earn more (and have benefited from a well regulated profession) should bear a greater burden for supporting the profession than those who earn less or are at the start of their careers.

150. Our analysis reconfirms that the policy is robust and the evidence shows no potential for discrimination.

## VII. Other supporting information

### Financial Risk & Mitigation Steps

151. The main budgetary risks are:

- a. PCF collection levels uncertainty due to Covid
- b. Uncertainty of non-PCF income due to Covid and the uplift in PCF
- c. Effect of the downturn in the economy and political uncertainty (Brexit) on inflation, tax rates and costs.
- d. Risk of Refusal
  - In the event of refusal of the PCF application by the BSB the GCB would rely on its reserves per its reserves policy, although we would need to know immediately that changes the LSB expects. The GCB has funds available for 3 months operational expenditure. Any delay in the PCF approval would also have implications for the Practising Certificates which expire on 30 April. If there was a delay the certificates may need to be extended as was the case in 2020 when the covid pandemic first struck the UK.

### Financial risk mitigation

152. 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.

153. If the GCB did not increase PCF and just used the reserves to cover the increase in recurrent costs this would inevitably lead to a much greater increase in PCF in future years. The PCF proposal put forward will mitigate the increase to the profession by using reserves, without substantially weakening the overall financial position. The GCB is able to use its reserves in this way due to work it undertook in 2021 /22 to cut costs and obtain a CBILS loan. Without these actions the GCB would have no other option than to pass on the full amount of the cost increases in one year (9%) rather than the current proposal.

## VIII. Contact details

### Next steps and communication with the Bar

154. 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.

155. The communication plan is underway and will continue through post, email and social media channels up to and beyond the opening of the AtP process in February / March 2022.

156. *I certify that the information provided in this application is accurate and complete to the best of my/our knowledge and I/we have taken reasonable steps to ensure that the application complies with the Rules.*

A handwritten signature in blue ink, appearing to read 'Malcolm Cree', with a horizontal line underneath.

**Malcolm Cree CBE**

**Chief Executive  
General Council of the Bar of England and Wales**

8 February 2022

## ANNEX 1:

### EQUALITY IMPACT ANALYSIS



### EQUALITY IMPACT ANALYSIS (EQIA)

Date of Assessment	<ul style="list-style-type: none"><li>14/12/21</li></ul>																																																
Assessor Name & Job Title	<ul style="list-style-type: none"><li>Richard Cullen (Director of Finance) / Sam Mercer (Head of Policy: E&amp;D and CSR).</li></ul>																																																
Name of Policy/Function to be Assessed	<ul style="list-style-type: none"><li>PCF 2022-23</li></ul>																																																
Aim/Purpose of Policy	<div><div><div>2. This year there will be an increase to the annual PCF. In order to deliver a 4.5% increase in forecast PCF income. We are proposing that that there be no change to band 1 and that the increase be limited to 3% for bands 2 to 5.</div><div>3. Bands 6, 7 and 8 will be revised resulting in each of those bands being split. The lower half of each of these bands will have a 3% increase and for the higher end of each of those bands the increase will be limited to 9%.</div></div><table><tr><th>Income Band</th><th>Range</th><th>Current Fee</th><th>Proposed Fees</th></tr><tr><td>Band 1</td><td>£0 - £30,000</td><td>100</td><td>100</td></tr><tr><td>Band 2</td><td>£30,001 - £60,000</td><td>246</td><td>253</td></tr><tr><td>Band 3</td><td>£60,001 - £90,000</td><td>494</td><td>509</td></tr><tr><td>Band 4</td><td>£90,001 - £150,000</td><td>899</td><td>926</td></tr><tr><td>Band 5</td><td>£150,001 - £240,000</td><td>1,365</td><td>1,406</td></tr><tr><td>Band 6/1</td><td>£240,001 - £350,000</td><td>1,850</td><td>1,906</td></tr><tr><td>Band 6/2</td><td>£350,001 - £500,000</td><td>1,850</td><td>2,017</td></tr><tr><td>Band 7/1</td><td>£500,001 - £750,000</td><td>2,500</td><td>2,575</td></tr><tr><td>Band 7/2</td><td>£750,001 - £1,000,000</td><td>2,500</td><td>2,725</td></tr><tr><td>Band 8/1</td><td>£1,000,001 - £1,500,000</td><td>3,000</td><td>3,090</td></tr><tr><td>Band 8/2</td><td>£1,500,001 and over</td><td>3,000</td><td>3,270</td></tr></table><div><ul style="list-style-type: none"><li>The PCF is charged annually as part of the Authorisation to Practice process. On an annual basis barristers confirm they are fit to practise and pay an annual practising fee (PCF)</li><li>The fee provides the necessary funds for permitted purposes provided by the regulatory body (BSB) and the representative body (Bar Council)</li></ul></div></div>	Income Band	Range	Current Fee	Proposed Fees	Band 1	£0 - £30,000	100	100	Band 2	£30,001 - £60,000	246	253	Band 3	£60,001 - £90,000	494	509	Band 4	£90,001 - £150,000	899	926	Band 5	£150,001 - £240,000	1,365	1,406	Band 6/1	£240,001 - £350,000	1,850	1,906	Band 6/2	£350,001 - £500,000	1,850	2,017	Band 7/1	£500,001 - £750,000	2,500	2,575	Band 7/2	£750,001 - £1,000,000	2,500	2,725	Band 8/1	£1,000,001 - £1,500,000	3,000	3,090	Band 8/2	£1,500,001 and over	3,000	3,270
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	<ul style="list-style-type: none"> <li>• <i>It benefits the legal profession and society as a whole to have an appropriately funded regulator and representative body ensuring standards are improved and maintained and the benefits and needs of the profession are articulated to the wider society.</i></li> <li>• <i>The intention is that barristers pay an annual fee based on ability to pay.</i></li> </ul>
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## 1. Evidence

What evidence will you use to assess impact on equality?
<ul style="list-style-type: none"> <li>• <i>We have completed an in-depth analysis of barristers with protected characteristics across the different income bands.</i></li> <li>• <i>There will be no increase for Band 1. It will remain at £100. Band 1 contains people newly joining the profession and those returning from maternity / paternity. Band 1 contains those earning from £0 to £30k. This band contains the highest proportion of women, ethnic minorities, disabled and the highest proportion of those aged 25-34 years old</i></li> <li>• <i>Bands 2 to 5 will see a 3% increase in PCF. This covers barristers with an income of £30k- £240k</i></li> <li>• <i>Bands 6, 7 and 8 (barristers with income greater than £240k) have been revised resulting in each of those bands being split. The lower half of the revised split bands will have a 3% increase and for the higher end of each of those bands the increase will be limited to 9%.</i></li> <li>• <i>Those barristers that will receive a 9% increase are predominantly: male, white, non disabled and greater than 45 years in age.</i></li> </ul>

## 2. Impact on Equality

<p>Consider whether the evidence listed above shows the potential for differential impact, either adverse or positive, for different groups. If there are negative impacts, explain how you will attempt to mitigate these. Mitigating actions can be described in more detail in your Action Plan (Section 4).</p> <ul style="list-style-type: none"> <li>• <i>All groups will be able to access the PCF in the normal way. Will people from all groups be able to access the service; will there be any barriers for certain groups?</i></li> <li>• <i>Policy based on ability to pay and should not discriminate unlawfully or provide any indirect discrimination.</i></li> <li>• <i>The changes shield those in income band 1 (income less than £30k) from any change in the PCF fee.</i></li> </ul>	
Race	<ul style="list-style-type: none"> <li>• <i>As there is no significant change to the policy of PCF based on ability to pay there is not expected to be any negative impact in this area.</i></li> <li>• <i>Band 1 – no change – has the highest proportion of barristers from an ethnic minority background</i></li> </ul>

The General Council of the Bar  
2022/23 PCF submission and Bar Council & BSB budget

Gender	<ul style="list-style-type: none"> <li>As there is no significant change to the policy of PCF based on ability to pay there is not expected to be any negative impact in this area.</li> <li>Band 1 – no change – has the highest proportion of women</li> </ul>
Disability	<ul style="list-style-type: none"> <li>As there is no significant change to the policy of PCF based on ability to pay there is not expected to be any negative impact in this area.</li> <li>Band 1 – no change – has the highest proportion of barristers with a disability</li> </ul>
Age	<ul style="list-style-type: none"> <li>As there is no significant change to the policy of PCF based on ability to pay there is not expected to be any negative impact in this area.</li> <li>Band 1 – no change – has the highest proportion of young barristers [&lt;25, 25-34]</li> </ul>
Sexual Orientation	<ul style="list-style-type: none"> <li>As there is no significant change to the policy of PCF based on ability to pay there is not expected to be any negative impact in this area.</li> </ul>
Religion/Belief	<ul style="list-style-type: none"> <li>As there is no significant change to the policy of PCF based on ability to pay there is not expected to be any negative impact in this area.</li> </ul>
Gender Reassignment	<ul style="list-style-type: none"> <li>As there is no significant change to the policy of PCF based on ability to pay there is not expected to be any negative impact in this area.</li> </ul>
Pregnancy/ Maternity	<ul style="list-style-type: none"> <li>As there is no significant change to the policy of PCF based on ability to pay there is not expected to be any negative impact in this area.</li> </ul>
Marriage and Civil Partnership	<ul style="list-style-type: none"> <li>Not applicable</li> </ul>
Other Identified Groups	<ul style="list-style-type: none"> <li>As there is no significant change to the policy of PCF based on ability to pay there is not expected to be any negative impact in this area</li> </ul>

How does the policy advance equality of opportunity?
The policy further promotes payment of the PCF based on ability to pay

How does the policy promote good relations between different groups?
<i>It is generally thought that those who earn more (and have benefited from a well regulated profession) should bear a greater burden for supporting the profession than those who earn less or are at the start of their careers.</i>

### 3. Summary of Analysis

Now you have considered the potential impacts on equality, what action are you taking? (Mark 'X' next to one option and give a reason for your decision)		
a. No change to the policy (no impacts identified)	Your analysis demonstrates that the policy is robust and the evidence shows no potential for discrimination. You have taken all appropriate steps to advance equality and foster good relations between groups.	X
b. Continue the policy (impacts identified)	Continue with the proposal, despite any adverse impacts, provided it is not unlawfully discriminatory and is justified.	
c. Adjust the policy and continue	Take steps to remove barriers, mitigate impacts or better advance equality before continuing with the policy.	
d. Stop and remove the policy	There are adverse effects that are not justified and cannot be mitigated. The policy is unlawfully discriminatory.	
Reason for decision:		
<i>It is not anticipated that there will be any negative effects from these changes to PCF. An analysis of the data post AtP will be undertaken to assess the validity of this assumption.</i>		

#### 4. Action Plan for Improvement

Give an outline of the key actions that need taking based on any challenges, gaps and opportunities you have identified. Include here any action to address negative equality impacts or data gaps.			
Action Required	Desired Outcome	Person Responsible	Timescale
<i>Analysis of the AtP results for impact on equality</i>	<i>Evidence to support the assumptions</i>	<i>Paul Martyn / Richard Cullen</i>	<i>Post AtP end of March 2022</i>



## ANNEX 2: Additional Financial Information:

Table 13 - BC & BSB Budgets - 2021/2022 v 2022/2023					
	2021/22 Budget	Final 2022/23 Budget	Draft	Variance	Variance %
	£000's	£000's		£000's	
Income					
PCF Income	10,804	11,896		1,092	10%
PCF- BC	4,514	4,951		437	10%
BSB Fees and Charges	1,778	1,540		(238)	(13)%
BC Representation Income	214	214		0	0%
BC Services to the Profession	2,210	2,255		45	2%
Corporate Income	152	793		641	422%
Total income	19,672	21,649		1,977	10%
Staff Related Expenditure					
BC Staff costs	2,793	3,028		(235)	(8)%
BSB Staff costs	4,957	6,060		(1,103)	(22)%
Allocation of Shared Services	1,827	2,019		(192)	(11)%
Total Staff Related Expenditure	9,577	11,107		(1,530)	(16)%
Non-Staff Expenditure					
BC Non-Staff costs	1,402	1,529		(127)	(9)%
BSB Non-Staff costs	2,032	2,173		(141)	(7)%
Allocation of Shared Services	4,113	4,628		(515)	(13)%
Non-Staff Expenditure	7,547	8,330		(783)	(10)%
Total expenditure				(2,313)	(14)%
DB Pension Fee	1,300	1,300		0	0%
LSB Charge	844	892		(48)	(6)%
Total costs	19,268	21,629		(2,361)	(11)%
Net Surplus/(Loss)				(384)	(95)%

## **Annex 3. BSB response to LSB queries**

### **Bar Standards Board programme of activity 2022/23**

The table at annex A provides a breakdown of the proposed Bar Standards Board budget by function, together with an analysis of how each function supports the regulatory objectives and the four strategic priorities proposed in the Bar Standards Board strategy consultation. The table at annex B provides an analysis of how the additional posts provided for in the 2022/23 budget will support these functions. This commentary develops the information summarised in the tables.

#### **Overview**

The proposed Bar Standards Board budget for 2022/23 reflects a root and branch review of the capabilities needed by the BSB in order to be effective in delivering the regulatory objectives in the face of the challenges facing the Bar over the next three years.

The Bar Standards Board's strategy consultation<sup>4</sup> analysed those challenges in terms of four priorities:

- providing consumers with confidence in using the services of barristers by discharging our regulatory operations efficiently and effectively;
- maintaining and improving access to justice both by tackling constraints on barrister numbers and improving consumers' understanding and choice of barristers' services;
- enabling the benefits and mitigating the risks of technology and innovation; and
- promoting best practice in chambers' and employers' oversight of diversity and standards.

To deliver on this agenda, the Board identified that the BSB needed to enhance its capabilities to:

- manage its core operations of handling reports, dealing with authorisations and taking forward investigations, including by improving the efficiency of our processes;
- ensure the BSB itself is a role model in demonstrating diversity and inclusivity;
- enhance our ability to engage proactively with chambers and employers through a strengthened supervision function;
- improve our research evidence and other intelligence, particularly bearing on the experience of consumers, and our ability to evaluate our interventions;
- support the development and engagement of our own people; and
- reinforce the independence, self-confidence and credibility of BSB itself, including by reviewing the case for incorporation.

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<sup>4</sup> <https://www.barstandardsboard.org.uk/uploads/assets/be75433d-8d46-4c27-b578cd490f49a95c/BSB-Strategy-consultation-Oct2021.pdf>

These objectives and capabilities are being taken forward through BSB's functions and associated budgetary provision as follows.

### **How the BSB functions support the regulatory objectives and strategic priorities**

#### *Supervision (£727,213; 9%)*

The Supervision function has responsibility for our risk-based regulation of chambers, employers, BSB authorised entities, individual barristers and authorised training providers. It includes supervision of activities such as pupillage, the transparency rules, equality and diversity compliance, anti-money laundering and bullying and harassment. In doing so, our supervision work protects consumers and promotes the diversity, independence and quality of the profession.

Our Supervision work will be central to the development of our strategic priorities. The relationships we have with our regulated communities through our proactive supervision provides evidence to support innovation and the use of technology by barristers and helps target our regulation where it is needed. It enables us to understand how work is allocated within chambers, how standards of practice are maintained and how governance and decision making within chambers are undertaken. All of this feeds into our plans for greater focus on the regulation of chambers, which will be driven by the evidence gathered through our regulatory return and through the continuing relationship management of chambers and entities. The impact of any new regulation will be assessed through, amongst other things, spot checking and thematic supervision reviews.

The budget provides for the Supervision Team to be strengthened by two posts in 2022/23 from a complement of six to eight.

#### *Authorisations (£1,887,204; 23%)*

Our Authorisations Team is responsible for the authorisation of Bar and Pupillage Training Providers, for the management of the Bar Training centralised assessments and for assessing applications for waivers and exemptions from Bar training and practising requirements.

The budget allocated to our authorisation functions ensures the timely, high quality and consistent assessment of authorisation decisions in line with our published service standards. In doing so it gives consumers and others confidence in the service we provide and confidence that barristers are subject to rigorous assessment before entering the profession. The authorisation of chambers and entities as providers of pupillage training, as well as the development of new pathways for entry to the profession such as apprenticeships, helps ensure a good supply of new entrants to the profession and encourages diversity.

The budget provides for the Authorisations Function to be strengthened by one post in 2022/23, in particular to manage the additional work on re-authorising the providers of pupillage.

### *Contact and Assessment (£658,243; 8%)*

The Contact and Assessment function is responsible for assessing reports about the conduct of barristers and for taking initial decisions on whether the report identifies a potential breach of the BSB Handbook that requires further investigation. So the functions promotes adherence to the professional principles and protects consumers.

The budget for Contact & Assessment for 22/23 is set to ensure that reports about barristers are handled in line with our published service standards and that we take high quality and consistent decisions. Information from reports is a valuable source of evidence to support our policy development and to evaluate the impact of our regulation. It will be particularly useful as we develop our approach to the stronger oversight of chambers and will contribute to our assessment of compliance with requirements around equality, diversity and inclusion.

The budget also provides for:

- the retention of two fixed term posts and the recruitment of a third to facilitate a review of regulation operations in 2022/23;
- the recruitment of an additional data analysis officer who will support the analysis of the flows of work through our regulatory processes (including also authorisations and enforcement); and
- the recruitment of an additional data protection officer to address the increasing number of subject access requests generated alongside our regulatory operations.

### *Enforcement (£1,419,195; 17%)*

This function includes the full range of the BSB's enforcement work from investigation through to disciplinary action and any associated work such as appeals, interim suspension and fitness to practise cases. Accordingly, the function protects the public interest, the rule of law and the interests of consumers, while also contributing to a strong and diverse profession and to upholding the professional principles.

The 2022/23 budget provides for the function to be strengthened with three additional posts in order to provide the resilience and capacity to move forward investigations and disciplinary work more quickly. This includes administrative support to free up the time of more senior people to concentrate on demanding work.

### *Legal Support (£407,880; 5%)*

This function includes legal support and legal knowledge management across the full range of the BSB's regulatory decision-making functions, including litigation arising from such decisions. Accordingly, the function supports all or most of the regulatory objectives and the strategic priorities, but makes a particular contribution to the efficient and effective conduct of regulatory operations.

The budget for 2022/23 provides for one additional post in the team which in part responds to higher volumes of legal issues and in part provides an efficiency gain by reducing our dependence on more expensive external legal advice, and another post to

be recruited in the second half of the year that will grow and develop the capacity for the BSB to handle legal matters in-house.

*Regulatory Risk (£118,494; 1%)*

The Regulatory Risk function identifies risks to the regulatory objectives and works with the Board and SMT to prioritise them. This forms the basis of our strategic priorities as an organisation. The function also monitors the available evidence in relation to developments in the market and the BSB's response, managing our Risk Framework and regularly reporting to the Board. This ensures that the BSB is regularly evaluating any new evidence and reviewing its priorities. As such, our regulatory risk work takes account of all of the regulatory objectives, and by working with the Board to establish a risk appetite and relative priority, guides how the BSB promotes the regulatory objectives. Its work also applies across all strategic themes and contributes risk expertise to policy projects that are established in response to the risks that have been identified (approximately 20% of activity is project-focused.)

*Equality and Access to Justice (£316,159; 4%)*

The Equality and Access to Justice Team function promotes equal access to, and diversity within, the profession, working in partnership with stakeholders. It also promotes the interests of diverse and vulnerable consumers across the work of the BSB. It reports to our Equality and Access to Justice Programme Board and commissions research, undertakes consultation and stakeholder engagement, conducts training and assists with embedding good practice in equality impact assessment across the organisation to ensure that equality and diversity issues are properly taken into account. As such the function contributes to encouraging an independent, strong, diverse and effective legal profession and to improving access to justice by considering the needs of a diverse range of consumers and working with the profession and others to eliminate barriers to access.

In taking forward the BSB's strategy, the function will promote best practice in chambers' oversight of standards and diversity by working with chambers and others in the profession. It will also contribute to improving access to justice by understanding and removing barriers that exist for certain groups and ensuring that new barristers joining the profession are drawn from diverse backgrounds to reflect the society they serve. It will also work to understand and minimise the barriers to progression for certain groups in the profession. And the function support projects other across the organisation to ensure that equality, diversity and inclusion issues are at the heart of our work. Approximately 40% of activity is project-related.

*Policy and Research (£794,897; 10%)*

The Policy and Research function draws on evidence of risk to the regulatory objectives to identify projects and programmes that will address those risks and evaluates the impact of those projects. Specifically:

- by reviewing the BSB's Code of Conduct and related regulatory arrangements, the function promotes all regulatory objectives, but

particularly: the public interest; the rule of law; the interests of consumers; and the professional principles;

- by developing rules on transparency and working with the other regulators on a range of projects relating to innovation and technology, digital comparisons and unbundling, the function promotes in particular: competition; the interests of consumers; and access to justice;
- by working with colleagues on the Assuring Competence Programme, the function particularly promotes the interests of consumers and the professional principles;
- by undertaking research and evaluation focusing on the needs of consumers, it promotes the interests of consumers; and
- by focusing research and evaluation activities on other risks in the market, it promotes all regulatory objectives to differing degrees.

The function will contribute to the strategic priorities by:

- providing consumers with confidence in using the services of barristers: by monitoring our disciplinary process and the impact of our training reforms. And by incorporating consumer feedback into our projects to reform regulatory arrangements, and evaluating their impact;
- maintaining and improving access to justice: by researching barriers to entry and progression in the profession and evaluating the impact of regulatory interventions; understanding the needs of consumers through commissioned research; working to promote transparency and competition in collaboration with the other regulators and other stakeholders; and improving our understanding of how consumers choose barristers (especially via a solicitor.)
- enabling the benefits and mitigating the risks of innovation and technology: by working with the other regulators to understand innovations in the market and remove regulatory barriers; piloting new approaches to unbundling and online comparisons; providing waivers or relaxing regulation where necessary to facilitate innovation and remove barriers; and understand how our regulation needs to evolve.

To take forward these strategic priorities, the budget provides for the strengthening of the Policy team with three additional posts, including administrative support to free the time of more senior people, and the strengthening of the Research team with one additional post.

#### *Communication and public engagement (£262,416; 3%)*

The CPE function supports all other BSB teams in the pursuit of the BSB's regulatory objectives. It publishes information about BSB's work, including our strategy and business plan, and promotes that work through a programme of prioritised engagement with key stakeholders involving both Board and executive team members. The functions leads in particular on actions to improve engagement with consumers and organisations representing consumers.

*Public Legal Education PLE (£111,849; 2%)*

The PLE function meets our regulatory objective of “increasing public understanding of citizens' legal rights and duties” and is pursued through the publishing of materials on our own website and via the Press and in partnership with other regulators and with charities supporting those in legal need.

PLE comes under the strategic priority of “maintaining and improving access to justice” and involves both ensuring that individuals and small businesses and the organisations advising them have a good understanding of the services barristers can provide and working with other regulators and frontline advice providers to ensure that the public have a better understanding of their legal rights and duties, the legal services market and how to access legal advice.

*People (£288,545; 4%)*

The People function leads work to define a culture and values for the Bar Standards Board appropriate to an independent regulator and to put in place the policies for the recruitment, remuneration, retention and development of our people which will sustain BSB's self-confidence and ability to deliver.

*Governance and corporate services (£960,662<sup>5</sup>; 11%)*

This function ensures that governance in the Bar Standards Board reflects best practice, including adherence, where appropriate, to the UK Corporate Governance Code. The function plays a key role in setting, and overseeing, standards for the quality of Board papers and for streamlining governance documents.

*Programmes (£280,735; 3%)*

The Programmes function sets standards, monitors and oversees the delivery of the programmes and projects which represent the BSB's principal means of delivering strategic interventions. The function also promotes the development of project management skills and good practice across the BSB in a bid to ensure that resources are deployed mindful of the interdependencies within the portfolio and that projects are delivered in accordance with the project management framework.

## **Regulatory performance**

The Bar Standards Board's reforms of governance are owned by the Board and coordinated as part of a central programme. Responsibility for specific actions within that programme are shared across a range of functions as set out in the update of the action plan submitted to the Legal Services Board in October 2021 in support of the evidence requested on regulatory performance. Major contributions are made by:

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<sup>5</sup> Includes the costs of the DG and Board members

- the Board which owns and oversees the plan;
- the DG and Governance and Corporate Services function which oversee the streamlining of BSB's corporate governance documents and sets standards for Board papers;
- the People function which is taking forward the development of a culture, values and supporting policies appropriate to an independent regulator; and
- the Communication and Public Engagement function which is responsible for reforms to our engagement with consumers.

In addition, the budget for 2022/23 includes provision of £100 000 to fund (i.) legal and accounting advice on the practicalities and costs and benefits of incorporation and (ii.) consultancy advice on the longevity and robustness of the current Case Management System and Customer Relationship Management System as part of the wider review of the current IGR arrangements.

### **Assessing and evaluating benefits**

The Bar Standards Board assesses the benefits of regulatory interventions primarily through its well-developed analysis of regulatory risks (see the Risk function above) which draws on evidence from a range of sources, including: BSB's Regulatory Return; the reports received by BSB; intelligence provided by the Legal Ombudsman and Bar Mutual Insurance; feedback from stakeholders, including the Judiciary; and our own programmes of research and data gathering. We then test our assessment of risks and opportunities by consulting stakeholders, particularly stakeholders representing consumers. The recent consultation on strategy for the next three years is a good example of this.

The majority of strategic interventions are taken forward within a programme or project framework and governed by a programme or Project Initiation document which defines the benefits sought from the intervention in terms of the regulatory objectives and sets out, and manages, the associated risks to the realisation of those objectives.

We then evaluate the impact of these interventions by commissioning research or analysing relevant data. For example, we are currently undertaking research into the impact of the transparency rules on both consumers and on chambers. We also have research underway into the impact of our reforms of Bar training. The data we publish annually on diversity of the Bar and incomes at the Bar provides a basis for assessing the impact of our interventions aimed at promoting diversity and inclusion.



The General Council of the Bar  
2022/23 PCF submission and Bar Council & BSB budget

## Annex 4: Additional information: BSB budget by function

	Function						
	LE	RO	S&P	G&CS*	Prog.	HR	CPE
<b>Budget</b>							
Budget 22/23 (£'000s)	1,827	3,273	1,230	961	281	289	374
% of BSB budget 22/23	22%	40%	15%	12%	3%	4%	5%
<b>Regulatory Objectives</b>							
1. Protecting and promoting the public interest	E, LS	S, A, CA, OS	RR, EAJ, PR				
2. Supporting the constitutional principle of the rule of law	E, LS		RR, PR				
3. Improving access to justice			RR, EAJ, PR				
4. Protecting and promoting the interests of consumers	E, LS	S, CA, OS	RR, EAJ, PR				
5. Promoting competition in the provision of services		S, A	RR, PR				
6. Encouraging an independent, strong, diverse and effective legal profession	E, LS	S, A, CA	RR, EAJ				
7. Increasing public understanding of citizens' legal rights and duties		CA	RR, PR				
8. Promoting and maintaining adherence to the professional principles	E, LS	S	RR, PR				
<b>Strategic Priorities 22-25</b>							
1. Providing consumers with confidence in using the services of barristers by discharging our regulatory operations efficiently and effectively	E, LS	S, A, CA, OS	RR, EAJ, PR				
2. Maintaining and improving access to justice both by tackling constraints on barrister numbers and improving consumers' understanding and choice of barristers' services			RR, EAJ, PR				
3. Enabling the benefits and mitigating the risks of technology and innovation	E	S	RR, PR				
4. Promoting best practice in chambers' and employers' oversight of diversity and standards		S, A, CA	RR, EAJ, PR				

\*Includes the salary & associated costs for the Director General and BSB Board members

### Acronyms

Authorisation	A
Communications and Public Engagement	CPE
Contact & Assessment	CA
Enforcement	E
Equality & Access to Justice	EAJ
Governance & Corporate Services	G&CS
Human Resources	HR
Legal & Enforcement	LE
Legal Support	LS
Operational Support	OS
Policy & Research	PR
Programmes	Prog.
Regulatory Operations	RO
Regulatory Risk	RR
Strategy & Policy	S&P
Supervision	S

The General Council of the Bar  
2022/23 PCF submission and Bar Council & BSB budget

## ANNEX 5: Additional information: BSB analysis of additional posts

Post	Function/Team	Purpose
Senior Legal Support Officer	LE/Legal Support	To assist with capacity issues, including addressing backlogs in essential operational policy work and reduce our reliance on external legal advice.
Paralegal	LE/Enforcement	To allow for more effective case handling by legally qualified staff, by providing support in dealing with larger cases whether that be by reason of volume, complexity or significant challenge.
Senior Authorisation & Supervision Officer	RO/Authorisations	To manage the additional workload in transferring the previous Pupillage Training Organisations to Authorised Education and Training Organisations.
Policy Manager	S&P/PR	To complete the Code of Conduct Review and work with other regulators on joint projects which are currently underway - such as on unbundling and on innovation and technology to ensure the voice of the Bar and its clients is heard in any policies that are designed across legal sector as a result of these pilots. To also provide support in the delivery of new strategy projects.
Administrative Support Assistant	S&P	To enable smooth running of department, and thus allow expertise in the team to be fully focused on technical work instead of administrative work.
Senior Supervision Officer	RO/Supervision	To add much needed capacity and enable us to take a more proactive approach to Supervision (2 roles).
Senior Supervision Officer	RO/Supervision	
Reports and Data Analysis Officer	RO/OS	To improve our reporting and analysis of data collected through regulatory decision making, so that we can take targeted regulatory action and early interventions on service performance issues.
Data Protection Officer	RO/OS	To address the increase in Subject Access Requests and to allow other resources in OST to support other tasks within the Regulatory Operations and the Legal and Enforcement Departments.
Senior Policy Officer	S&P	To support the Policy Managers in the team, to hold the expertise on the Handbook and complete the Code of Conduct Review work and also address other areas in the BSB Strategy for 2022-25.
Administrative Officer	LE/Enforcement	To increase efficiency in case handling, by reducing the need for legally qualified/trained staff to carry out administrative tasks that could more appropriately be handled by staff at a lower/level cost.
Conduct Assessment FTC	RO/CA	Retention of existing two fixed term contract posts in Conduct Assessment Team (already in post) until March 2023, and employ a third fixed term contract in CAT for April 2022–March 2023 only. To enable the team to meet its KPIs whilst the review of CAT is carried out in 2022/23, with the expectation that additional efficiencies will be achieved.
Conduct Assessment FTC	RO/CA	
Conduct Assessment FTC	RO/CA	
Research Evaluation Manager*	S&P/PR	To focus on evaluation and consumer engagement for the various programmes of work underway and have increased capacity for delivering the team's extensive project portfolio.
Senior Case Officer*	LE/Enforcement	To provide greater capacity and resilience in the team to address the impact on performance standards from staff turnover, sickness absence, maternity leave and unexpected increases in volumes of work.
Legal Support Lawyer*	LE/Legal Support	To grow and develop the capacity for the BSB to handle legal matters in-house.

\*Recruitment of roles from October 2022 onwards

### Acronyms

Contact & Assessment	CA
Legal & Enforcement	LE
Operational Support	OS
Policy & Research	PR
Regulatory Operations	RO
Strategy & Policy	S&P