

BAR  
STANDARDS  
BOARD

REGULATING BARRISTERS

# **Fees and Charges Consultation 2015**

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## **1. Who should respond?**

1.1 The Bar Standards Board (BSB) would very much like to hear from the following groups:

- Legal Services Consumer Groups or Representatives
- Barristers
- Prospective Barristers
- People that have applied for a waiver from the BSB Handbook, including the Bar Training Rules
- Entities regulated by the BSB and prospective entities
- Education and training providers specialising in legal services
- The General Council of the Bar
- Peer regulators
- Legal Services Board
- Ministry of Justice
- Other BSB partners
- General Public

## 2. Executive Summary

2.1.1 This consultation is concerned with how the BSB is funded. Currently we raise our revenue through Practising Certificate Fees (PCFs) paid by barristers, and non-PCF fees and charges paid for by services users.

2.1.2 The BSB could, if it chose to do so, fund all of its services through PCFs, because of what the Legal Services Act 2007 (LSA) allows. We choose to have a non-PCF fee structure as well and the effect of this is that the PCF is lower for individuals than it would be otherwise.

2.1.3 We want your views on whether we should continue to charge for delivering certain services or whether PCF funds should cover all of the BSB's activities.

2.1.4 If we do continue to charge for services, we would like your views on how to do this. Should we charge at Full Cost recovery (where fees finance their "fair share" of all administrative costs), or should the PCF funds cover some aspects of service delivery? Some of the considerations we think we should take into account are the Regulatory Objectives (as set out in the LSA), the main beneficiaries of the service, and our equality duties.

2.1.5 To tell us what you think please visit [our website](#) or email [contact us](#). The deadline for responses is 12.00pm on 15 February 2016.

Date	Timeline
December 2015	Consultation launches
February 2016	Consultation closes
March 2016	Decision on any fee changes
April 2016	Fee changes implemented

2.1.6 We are also currently consulting on a related fees matter. This is in connection with the Alternative Business Structure fee levels that also use the principles set out in this document. To find out more please visit [our website](#).

Response details	
Contact:	Viki Calais, BSB Business Manager  020 7611 1447  Bar Standards Board 289-293 High Holborn London WC1V 7HZ
Email:	<a href="mailto:contactus@barstandardsboard.org.uk">contactus@barstandardsboard.org.uk</a>
Consultation closes:	12.00pm on 15 February 2016

### 3. Questions

3.1.1 To tell us what you think please visit [our website](#) or email [contact us](#). The deadline for responses is 12:00pm on 15 February 2016.

<b>Part A General Principles</b>	
Question 1	Please tell us who you are, or if you are responding on behalf of an organisation.
Question 2	Do you think the BSB should continue to charge for delivering certain services?
Question 3	In your opinion, should the PCF funds cover all of the BSB's activities?
Question 4	If the BSB is to charge for certain services, do you agree that the Full Cost Recovery principle should normally be applied?
Question 5	Are the Principles set out in table 5.4.2 the right ones to consider when deciding fee levels?
Question 6	What else do you think should be considered when deciding on fee levels?
Question 7	Should the BSB use a "sliding scale" (see illustration 5.4.7) to make a decision on fee levels?
Question 8	In your opinion, should the BSB publish more detail than it does currently with regard to fees or funding?
Question 9	Is the BSB's website the right place to make fees and charges information available?
Question 10	Would you expect the BSB to consult on fee changes in any additional circumstances other than those listed in paragraph 5.6.1?
Question 11	Do you think the BSB should continue with its <a href="#">fee waivers policy</a> ?
Question 12	What are the arguments for and against continuing with the fee waivers policy?
Question 13	In your opinion, should the BSB introduce discounts (instead of fee waivers)?
Question 14	If discounting were to be introduced, in percentage terms, what level of discount do you think the BSB should set?
Question 15	What are the arguments for and against introducing discounts?
Question 16	Do you think waivers or discounts should be funded by the users of the same service, or by the profession as a whole?
<b>Part B Qualifications Committee application fees</b>	
Question 17	In your opinion, should the BSB apply the Full Cost Recovery method to <a href="#">Qualifications Committee application</a> fees?
Question 18	What reasons would justify the BSB not applying the Full Cost Recovery method for Qualifications Committee application fees?
Question 19	In your opinion, which protected characteristic groups are likely to be negatively impacted by Qualifications Committee application fee increases?
Question 20	Why do you think particular protected characteristic groups would be negatively impacted by Qualifications Committee application fee increases?
Question 21	Do you think the negative equality impacts are significant?
Question 22	In your opinion, should the BSB take any action to mitigate any adverse impact to particular groups?
Question 23	What do you think the most appropriate mitigating actions might be?

## 4. Introduction

### 4.1 The Bar Standards Board (BSB)

4.1.1 We regulate barristers called to the Bar and barrister-led entities in England and Wales in the public interest.

4.1.2 We are responsible for:

- a) setting the education and training requirements for becoming a barrister;
- b) setting continuing training requirements to ensure that barristers' skills are maintained throughout their careers;
- c) setting standards of conduct for barristers;
- d) monitoring the service provided by barristers to assure quality; and
- e) handling complaints against barristers and taking disciplinary or other action where appropriate.

4.1.3 The BSB is the independent regulatory arm of the Bar Council, which the Legal Services Act 2007 (LSA)<sup>1</sup> recognises as the Approved Regulator in this sector. The Bar Council is an unincorporated association and a not-for-profit organisation.

4.1.4 The BSB is committed to delivering against the Regulatory Objectives set out in the LSA (s1), which include protecting and promoting the public interest, and it also pays regard to the principles of being transparent, accountable, proportionate, consistent, and targeted (s3). The Regulators' Code<sup>2</sup> echoes the objectives of being transparent and proportionate.

4.1.5 The BSB has a current strategic aim to achieve "best practice" as an organisation for those who work for us and those whom we serve. For the BSB, this includes establishing a baseline for regulatory costs and also steadying the rate of increase compared to the past three years. The BSB also strives to live up to our values by being cost-effective and accountable for our use of resources, as well as working efficiently with an entrepreneurial and commercial mind-set as far as appropriate.

### 4.2 How the BSB is funded

4.2.1 The BSB is primarily funded through Practising Certificate Fee (PCF) funds (£5,862k) which the Bar Council raises on our behalf under s51 of the LSA. The BSB also raises a small proportion of its revenue from fees it charges to certain services users and contractual partners (£1,875k)<sup>3</sup>. For the next two years the BSB will also receive a subsidy from the Inns of Court, £573k in the 2015-16 financial year, £250k in 2016-17; but nothing thereafter. The total cost of regulation for the BSB in 2015-16 is projected at £8,274k, which the BSB must raise via either PCFs or other regulatory fees or both.

4.2.2 As mentioned above, our 2015-16 Business Plan shows diagrammatically how much of our funds come from PCFs (70%), how much come from the Inns' (7%), and how much comes from regulatory fees and charges (23%) – (see figure 4.2.3).

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<sup>1</sup> [Link to the Legal Services Act 2007](#)

<sup>2</sup> [Link to the Regulators Code 2014](#)

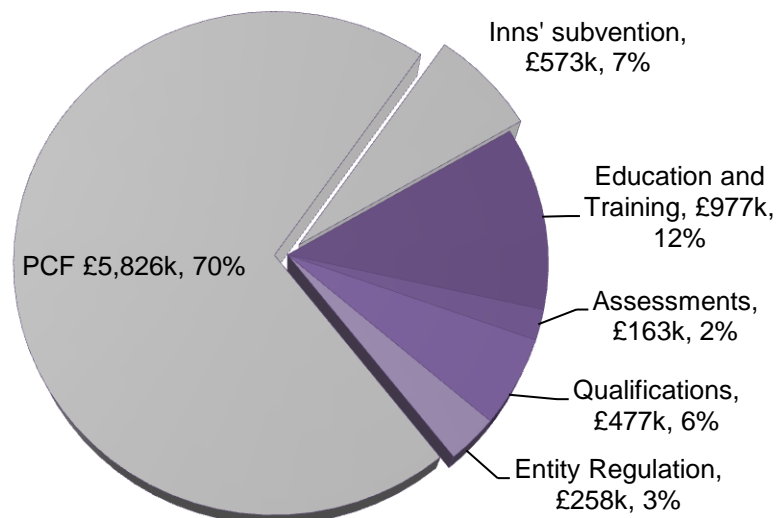
<sup>3</sup> Numbers quoted in this paragraph are taken from the BSB's 2015-16 Business Plan [https://www.barstandardsboard.org.uk/media/1658569/bsb\\_business\\_plan\\_2015-16.pdf](https://www.barstandardsboard.org.uk/media/1658569/bsb_business_plan_2015-16.pdf)

#### 4.2.3 Figure 4.2.3: How the BSB is funded

See footnote 3 on the previous page.

Grey – PCF and Inns' subvention.

Purple – non-PCF fees and charges.



4.2.4 The BSB could, if it chose to do so, fund all of its services through PCFs. This is because all of our activities relate to regulation, accreditation, education and training of barristers (as detailed in s51 of the LSA). The income we receive from non-PCF fees (BSB fees and charges) reduces the amount of money we have to raise via the PCF. Without the other regulatory fees, the profession would need to fund all of the BSB's activities, including for example the regulation of education and training for those who are not yet members of the profession.

4.2.5 It is worth noting that at the time of publication, the Bar Council had released a related consultation on the level of the [2016 PCF and the Bar Council budget](#) for 2016/17; this is quite separate to the one we are conducting here.

### 4.3 Current regulatory fees and charges

4.3.1 The BSB has a number of charges already in place and a small number are described here:

- a) Bar Professional Training Course (BPTC) provider fees – a fee that an education provider pays in order to be accredited to deliver the BPTC; this covers the cost of our supervision and quality assurance, as well as centralised examinations;
- b) Continuing Professional Development (CPD) Accreditation fees – a fee that a training provider pays in order to be accredited by the BSB to deliver CPD courses;
- c) Qualifications Committee application fees:
  - Fees for an application to be admitted to the Bar eg Foreign Lawyer application fees;
  - Fees that are paid when a person would like to apply for a waiver or exemption from the BSB Handbook, including the Bar Training Regulations eg an application to reduce Pupillage requirements;
  - Fees that are paid for applications for certain types of approval under the BSB Handbook – eg authorisation to conduct litigation, approval as a pupillage training organisation, licensed access;
  - Fees for applications for review of certain types of decision.
  - These are explored more in Part B;

d) Entity Regulation fees:

- Application – a fee a prospective entity pays for the BSB to consider its application;
- Authorisation – a fee an entity pays having been through the application process in order to be authorised by the BSB.

4.3.2 We are also currently consulting on the Alternative Business Structure (ABS) fee levels. An ABS is a type of entity permitted under the LSA 2007 which has a mix of lawyer and non-lawyer owners and managers. The fee structure for such entities is likely to follow the same principles we used for Entity Regulation. To find out more please visit [our website](#).

#### 4.4 Consultation

4.4.1 In line with best practice, the BSB consults its key stakeholders before implementing a policy decision. This consultation is being carried out so that the BSB can make a decision on the principles we use on how we fund ourselves, and from which sources we should collect our revenue.

4.4.2 The consultation has been split into two parts. Part A looks at the general principles we would like to continue to use. In a nutshell, we are asking our consultees whether our regulatory services should be: funded by the profession as a whole via PCFs; or by individual services users via non-PCF fees and charges; or by a blend of the two.

4.4.3 To illustrate our thinking, we have in Part B set out an example of how these principles might be applied in practice. This section looks at Qualifications Committee application fees, ie the applications people submit to be allowed a waiver or exemption from the BSB Handbook (see paragraph 4.3.1c above).

4.4.4 We would like your views on these matters as these will help to inform our decisions on fee levels. Your responses will provide us with an evidence base for discussions on whether non-PCF fees should increase, stay the same, or decrease. These decisions could ultimately impact upon how much the BSB draws down upon PCF funds, and how much individual barristers contribute via the PCFs.

#### 4.5 How to respond

4.5.1 Thank you for taking the time to participate; your views are important to us and we look forward to reading them.

4.5.2 Please click visit [our website](#) or email [contact us](#) to submit your responses.

4.5.3 The deadline for responses to this consultation is 12.00pm on 15 February 2016.

4.5.4 You do not have to wait until then to respond. You will find in each section a number of questions. We would ask that you treat these as prompts, and to please expand your answers as necessary if you think the information you provide will help us with our decision making. A response does not have to be a comprehensive written document: it can be if you wish, but it can also be short-form answers to the very specific questions we have posed.

4.5.5 You do not have to respond in writing. If you would like someone from the BSB to meet with you or the organisation or group of people you represent, to listen to your views, and record them accurately in writing for you, we will do this as far as possible. Just let us know that is what you wish to do.



4.5.6 We will be contacting lots of people and organisations who may have an interest in this consultation and asking if we can come and talk to them about it. If you would like us to talk to you about the consultation, please get in touch.

4.5.7 If you have a have a requirement to access this consultation in an alternative format, such as larger print or audio, please let us know. Please let us know if there is anything else we can do to facilitate feedback other than via written responses.

4.5.8 Whatever form your response takes, we will normally want to make it public and attribute it to you or your organisation, and publish a list of all respondents – unless you specifically ask that we do not do any of these things. Please make your wishes clear to us in this regard.

4.5.9 Please contact [Viki Calais](#) (The BSB’s Business Manager) if you would like further information about this consultation or if you would like assistance with your responses.

Response details	
Contact:	Viki Calais, BSB Business Manager  020 7611 1447  Bar Standards Board 289-293 High Holborn London WC1V 7HZ
Email:	<a href="mailto:contactus@barstandardsboard.org.uk">contactus@barstandardsboard.org.uk</a>

## 5. Part A – General Principles

### 5.1 What are the general principles for setting fees and charges?

5.1.1 This section outlines some of the general principles the BSB is taking or may take in future when considering what services it should charge for, and how much it should charge.

### 5.2 Should the BSB charge regulatory fees at all?

5.2.1 The BSB had previously agreed that in many circumstances it is good practice to charge for delivering services to users. It means that we can be more focussed on the expenditure relating to a particular service, and it can mean that the service is used wisely, thus reducing waste. In some contexts this principle is known as “polluter pays”.

5.2.2 If the BSB did not charge for some of its services, the costs would have to be covered by the PCF funds, paid for by all members of the profession. The effect of charging for specific services which are delivered by the BSB to specific users, rather than the profession as a whole, means that the total amount the BSB has to raise from the PCF to cover its costs is reduced and so the level of the PCF can be a little lower. With our current fee structure in place, the PCF is lower for individuals than it would be otherwise (as a guide, without our non-PCF fee structure, the *average* PCF could rise by as much as £100).

- Question 2 – Do you think the BSB should continue to charge for delivering certain services?
- Question 3 – In your opinion, should the PCF funds cover all of the BSB’s activities?

### 5.3 Full Cost Recovery

5.3.1 We use the term “Full Cost Recovery” to describe the way that the BSB calculates how much revenue is needed to pay for the costs of a particular service. It means adding up the costs of all aspects of service delivery, both direct and indirect costs, which include:

- a) Possible development or investment costs (to be recouped over a number of years, usually three);
- b) Direct staff costs;
- c) Direct non-staff costs;
- d) Governance and management (indirect costs);
- e) IT, HR (indirect costs);
- f) Premises (indirect costs);
- g) Corporate provisions and contingency (indirect costs).

The fee in question is then set in relation to all these costs, typically by dividing the costs by the anticipated number of users.

5.3.2 Generally when the Full Cost Recovery principle is used, it means that a particular service is not generating either a surplus or a deficit.

- Question 4 – If the BSB is to charge for certain services, do you agree that the Full Cost Recovery principle should normally be applied?

### 5.4 Exceptional cases

5.4.1 If the BSB chose not to charge at a Full Cost Recovery level for a particular service, there could be a number of reasons for this. A selection of these has been laid out in table 5.4.2 below. Under the “principles” column, the table sets out a number of issues that the BSB has a duty to pay regard to when deciding on the design of a service.

5.4.2 Table 5.4.2: Proposed principles

Principles	Steer towards 100% Full Cost Recovery from non-PCF fees	Steer towards fully funded by the PCF (from the profession as a whole)
<b>Regulatory Objectives</b> <ul style="list-style-type: none"> <li>• <b>Protecting and promoting the public interest</b></li> <li>• <b>Protecting and promoting the interests of consumers</b></li> </ul>	<ul style="list-style-type: none"> <li>• The service being provided <u>indirectly</u> promotes the public interest</li> <li>• The service being provided <u>indirectly</u> promotes consumer interests</li> </ul>	<ul style="list-style-type: none"> <li>• The service directly protects the public interest</li> <li>• The service directly protects consumer interests</li> </ul>
<b>Strategic Objectives and Values</b> <ul style="list-style-type: none"> <li>• <b>Value for Money</b></li> </ul>	<ul style="list-style-type: none"> <li>• The service is expensive to run, and draws upon significant staff and financial resource</li> </ul>	<ul style="list-style-type: none"> <li>• The service runs at a low cost, and resources used are negligible. Costs associated with fee collection outweigh service delivery</li> </ul>
<b>Beneficiaries</b>	The main beneficiaries are: <ul style="list-style-type: none"> <li>• Individuals</li> <li>• Private companies</li> <li>• Niche service users (eg barristers from a particular Specialist Bar Association)</li> </ul>	The main beneficiaries are: <ul style="list-style-type: none"> <li>• The profession as a whole</li> <li>• Large groups of prospective barristers</li> </ul>
<b>Market</b>	<ul style="list-style-type: none"> <li>• Fees for a particular service would have a negligible effect on market behaviour</li> </ul>	<ul style="list-style-type: none"> <li>• The BSB wants the service to heavily influence market behaviour</li> </ul>
<b>Regulatory Risks</b>	<ul style="list-style-type: none"> <li>• The service relates to <u>low</u> “likelihood” and <u>low</u> “impact” regulatory risks</li> </ul>	<ul style="list-style-type: none"> <li>• The service relates to “<u>highly likely</u>”, “<u>high impact</u>” regulatory risks</li> </ul>
<b>Barriers to the profession</b>	<ul style="list-style-type: none"> <li>• The financial or administrative processes relating to the service do <u>not</u> deter good quality people entering the profession</li> </ul>	<ul style="list-style-type: none"> <li>• The financial or administrative barriers <u>would</u> deter good quality from entering the profession</li> </ul>
<b>Equality Objectives</b> <ul style="list-style-type: none"> <li>• <b>Encourage an independent, strong, diverse and effective legal profession</b></li> </ul>	<ul style="list-style-type: none"> <li>• Fees <u>do not</u> adversely impact service users with protected characteristics</li> </ul>	<ul style="list-style-type: none"> <li>• Financial barrier <u>discourages</u> or adversely impacts service users with protected characteristics</li> </ul>

5.4.3 A number of these principles relate to the statutory Regulatory Objectives which we have listed below:

- a) protecting and promoting the public interest;
- b) supporting the constitutional principle of the rule of law;
- c) improving access to justice;
- d) protecting and promoting the interests of consumers;
- e) promoting competition in the provision of legal services;
- f) encouraging an independent, strong, diverse and effective legal profession;
- g) increasing public understanding of the citizen's legal rights and duties;
- h) promoting and maintaining adherence to the professional principles.

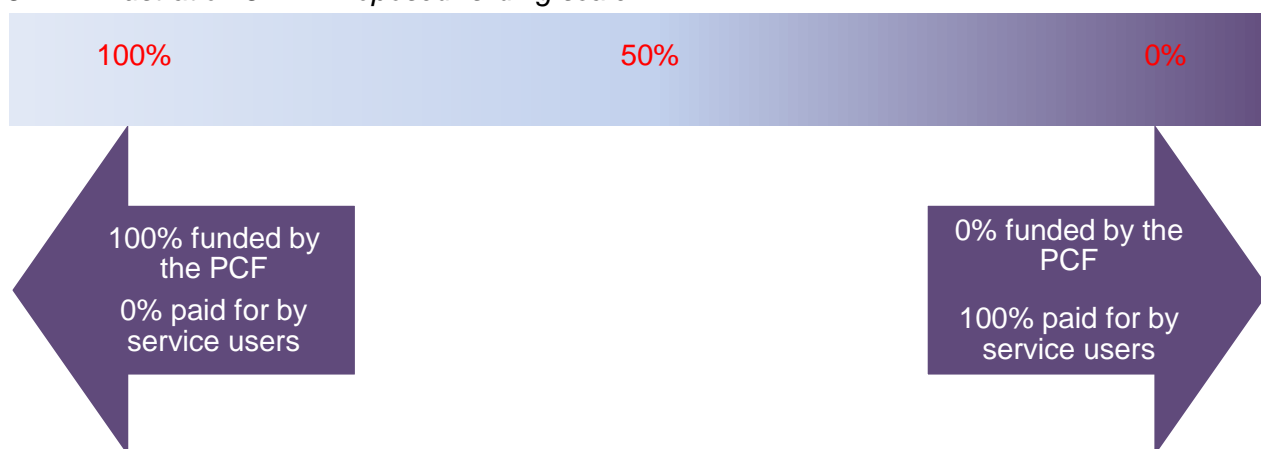
5.4.4 One of the functions that the BSB delivers, which it does not set a non-PCF charge for, is its enforcement function (or professional conduct / disciplinary system). This is because it is so important with regard to the Regulatory Objectives labelled above as a), d) and h), that the cost of this function is borne by the profession as a whole through the PCFs.

5.4.5 Looking at another aspect of table 5.4.2, we have applied a Full Cost Recovery regime to the authorisation and supervision of BPTC Providers. This is because the main beneficiaries of this service are educational institutes (not the profession as a whole). Typically some 1,400 BPTC students (who benefit indirectly) take the course, but roughly only 450 go on to become PCF payers.

5.4.6 The last row of table 5.4.2 sets out our duty with regard to the Equality Objectives. When we set fees for a particular service, we may be creating an arguably insurmountable financial barrier, which could mean that people with protected characteristics<sup>4</sup> are disproportionately deterred from using the service. It also means that we are not helping to advance against the Regulatory Objective f) above. This concept is explored further in Part B.

- Question 5 – Are the Principles set out in table 5.4.2 the right ones to consider when deciding fee levels?
- Question 6 – What else do you think should be considered when deciding on fee levels?

5.4.7 *Illustration 5.4.7: Proposed "sliding scale"*



<sup>4</sup> Equality Act 2010 – Protected characteristics: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, sexual orientation. The BSB also pays regard to socio-economic background.

5.4.8 It is not anticipated that there will be one “hard and fast rule” to calculate all non-PCF charges. In most cases, the BSB will be required to work its way through each principle in table 5.4.2, considering the impacts and effects that each would have. An evidence-based judgement would then be made on what percentage of costs should be recouped from direct charges, and what percentage should be underpinned by PCF funds. This could be viewed as a “sliding scale”.

- Question 7 – Should the BSB use a “sliding scale” (see paragraph 5.4.7) to make a decision on fee levels?

## 5.5 Transparency

5.5.1 The BSB already operates transparently, in that all fees and charges decisions are made public and each case is justified, with explanations of the basis of the fee, including any cross-subsidies. Most information can be found on the BSB’s website.

- Question 8 – In your opinion, should the BSB publish more detail than it does currently with regard to fees or funding?
- Question 9 – Is the BSB’s website the right place to make fees and charges information available?

## 5.6 Consultation

5.6.1 The BSB intends to continue to consult the relevant stakeholders before introducing any new charge or substantially modifying an existing charge in line with our consultation policy. We would not expect to consult if we intend to keep a particular fee at the same level, or if it rises or falls with inflation.

- Question 10 – Would you expect the BSB to consult on fee changes in any additional circumstances other than those listed in paragraph 5.6.1?

## 5.7 Fee waivers

5.7.1 For some fees, the BSB has a policy in some circumstances to waive the fee (ie the service user does not have to pay) and typically fee waivers are granted for applicants to avoid an injustice or real hardship or to incentivise particular behaviour. We have not consulted on this principle for some time and are considering whether it is still relevant, or if discounting would be more appropriate.

5.7.2 We would also like views on whether fee waivers should be funded by revenue from similar non-PCF fees (ie from other users of the same service), or whether they should be covered by PCF funds (from the profession), or whether they should be removed altogether. If waivers or discounts are funded from users of the same service, this means that the fees for that particular service could go up. If the waivers were funded by the profession as a whole, there could be a small increase to the PCF, depending on volume of activity. If there were no fee waivers, this might create a disproportionate or insurmountable financial barrier for people wishing to access the BSB’s services.

5.7.3 To illustrate this with a practical example, we have described here the types of considerations made in relation to Qualifications Committee application fees (much more information on this is set out in Part B). In our experience, two of the most common reasons for granting a fee waiver are either because of illness or maternity leave.

5.7.4 The Committee grants roughly 60 fee waivers to applicants annually. For simplicity, the average cost to the organisation of these fee waivers is roughly £250 per application, or £15,000 in total.

5.7.5 If other fee-paying Qualifications Committee applicants were to pick up this cost as part of their own fees, they would see an increase of roughly £7 for an application. If instead the profession were to fund these fee waivers, individual barristers would observe a £1 increase to their PCFs.

5.7.6 If instead the BSB decided to grant discounts instead of full fee waivers, the table below demonstrates the impact these discounts would have on either other applicants, or on the profession (see table 5.7.7). These figures are based on the information in table 6.2.2, and for simplicity it has been assumed that the same amount of revenue will be collected, and the number of people being granted fee waivers will not change. It should be noted that these average figures are stated for illustrative purposes only, and that much more sensitive analysis would be undertaken before deciding where the costs should fall.

5.7.7 *Table 5.7.7: Possible discounting structures*

Discount on Qualifications Committee application fees	Average change to other applicants fees	Average change to barristers' PCFs
100 % (full fee waiver)	£7 increase	£1 increase
80 %	£5 increase	80p increase
60 %	£3 increase	60p increase
40 %	No increase or decrease	40p increase
20 %	£2 decrease	20p increase
0 % (no fee waiver)	£4 decrease	No increase

5.7.8 The reason why there is on average a decrease to other applicants' fees in table 5.7.7 above, is because the average fee that is waived (£250) is greater than the average of all Qualifications Committee application fees (£160).

- Question 11 – Do you think the BSB should continue with its [fee waivers policy](#)?
- Question 12 – What are the arguments for and against continuing with the fee waivers policy?
- Question 13 – your opinion, should the BSB introduce discounts (instead of fee waivers)?
- Question 14 – If discounting were to be introduced, in percentage terms, what level of discount do you think the BSB should set?
- Question 15 – What are the arguments for and against introducing discounts?
- Question 16 – Do you think waivers or discounts should be funded by the users of the same service, or by the profession as a whole?

## 6. Part B – Qualifications Committee application fees

### 6.1 Qualifications Committee applications

6.1.1 As mentioned in the Introduction, the BSB charges fees for applications made to the Qualifications Committee. These are applications made for a variety of approvals under and waivers from the BSB Handbook, including the Bar Training Regulations.

6.1.2 It has been a while since these fees have been reviewed, however our general idea was that revenue from these fees covers the direct costs of the qualification regulations team. We are considering what it would mean to charge fees according to the full cost recovery principle (also see section 4.3.1c) ie revenue from Qualifications Committee application fees should cover both direct and indirect costs.

### 6.2 Costs and revenue of the Qualifications Team

6.2.1 Using the Full Cost Recovery principle, the following table shows the annual expenditure for both direct and indirect costs relating to Qualifications Committee applications. The BSB strives to be as efficient as possible and has aimed to reduce its costs in some areas.

6.2.2 *Table 6.2.2: Qualifications income and expenditure*<sup>5</sup>

	2014-15	2015-16
Type of Expenditure	Cost (£k)	Cost (£k)
Staff costs (direct costs)	278	247
Non-staff costs (direct costs)	42	31
Governance overheads (indirect costs)	165	167
Resources Group overheads (eg IT, HR, premises etc – indirect costs)	365	234
<b>Total annual cost</b>	<b>846</b>	<b>679</b>
<b>Total revenue</b>	<b>252</b>	<b>240</b>
<i>(as a percentage of full costs)</i>	<i>30%</i>	<i>35%</i>
<i>(as a percentage of direct costs)</i>	<i>79%</i>	<i>86%</i>
<b>Total number of applications received</b>	<b>1,480</b>	<b>1,500</b>

6.2.3 Between 2014-15 and 2015-16, we managed to slightly reduce the base direct costs (staff and non-staff costs). The overheads have significantly reduced over this time period mainly because of the reduction in property expenditure.

6.2.4 One of the uncertainties we face when considering fee levels, is the number of applications we might receive. As we have a duty to provide the Qualifications Committee application service, if we receive a very small number of applications in a year, we are still required to have a minimum resource in place to deal with such a scenario; this could have

<sup>5</sup> 2015-16 costs are based on financial year forecasts; 2015-16 application numbers are based on calendar year forecasts.



the effect of inflating proposed fee levels. There is on the other hand a risk that larger than anticipated numbers of applications are received, meaning that we could achieve a financial surplus.

6.2.5 We are able, to an extent, to balance out some of these fluctuations in numbers. For example, it would be reasonable to expect that if fees are significantly increased, there is likely to be a lower demand for the service with some prospective users being put off by expensive charges. If the BSB deals with fewer Qualifications Committee applications, it means that staff can be deployed to other important areas of regulatory activity; if less time is spent on dealing with applications, it means that the cost of the service is reduced (“time is money”). And vice versa, if there are significantly more applications, requiring substantially more staff time, then the service would be more expensive to deliver. In summary, our proposed fees can remain roughly constant, and the expected revenue will normally cover the cost of the service with varying levels of applications. We will of course continue to review numbers, costs and fees at the very least on an annual basis, so that we can make evidence-based decisions on future fee structures, and to keep service delivery as efficient and effective as possible.

6.2.6 More information about the levels of Qualifications Committee application fees can be found on [our website](#); these fees range from £50 to £550 depending on the type of application.

6.2.7 As shown in table 6.2.8 below, in order to recover full costs, there could be a 183% blanket increase to fees; for simplicity, this could increase the fee range to £142 - £1,557. In order to recover only direct costs, there would need to be a 16% increase, elevating the fee range to £58 - £638. We would of course analyse the fee levels more sensitively so would not necessarily implement a blanket increase, and we would also conduct more in-depth market analysis to be able to better predict the impact of any changes on levels of applications; the figures in this paragraph are shown for illustrative purposes only.

6.2.8 *Table 6.2.8: Possible Qualifications Committee application fee increases*

Number of applications	% fee change	Average fee	Fee range	Total revenue
1500	0% increase	£160	£50 - £550	£240,000
1500	16% increase	£185	£58 - £638	£278,000
1500	183% increase	£453	£142 - £1,557	£679,000

6.2.9 We are predicting that over the coming years, and with the introduction of revised or new regulatory regimes, there will be a reduction in the number of applications. If service delivery expenditure remains the same, then dividing the cost by the number of service users, will lead to an increase to the proposed (non-PCF) regulatory fees.

- Question 17 – In your opinion, should the BSB apply the Full Cost Recovery method to [Qualifications Committee application](#) fees?
- Question 18 – What reasons would justify the BSB not applying the Full Cost Recovery method for Qualifications Committee Application fees?

### 6.3 General Principles – Equality impact considerations (Equality Objectives)

6.3.1 The BSB is committed to improving diversity in the profession and ensuring that equality considerations are factored into the delivery of BSB functions. We have below set



out a snapshot of the high level equality analysis relating to the potential impacts of changing the Qualifications Committee application fees (rather than analysing each one). We will be using the responses from the consultation to carry out a full Equality Impact Assessment on each fee change as we want to consider whether any of the changes we are proposing will have any significant negative impacts.

6.3.2 The Qualifications function typically deals with a large numbers of applications from overseas jurisdictions, meaning that different ethnic groups are likely to be impacted by changes. Also for some types of rule waivers, the applicants are predominantly female. For example, in 2014:

- a) 66% of applicants for admission to the Bar by a qualified lawyer were of Black and Minority Ethnicity (BME). This type of waiver relates to a member of a legal profession regulated in a jurisdiction outside England and Wales. In 2012, only 11% of practising barristers were BME;
- b) 72% of applicants for a waiver of requirements of the Established Practitioners Programme (EPP) were female. This type of waiver relates to the CPD requirements of 12 hours completed each calendar year. In 2012, 35% of practising barristers were female;
- c) 59% of applicants for a Certificate of Academic Standing were BME. This type of applications relates to students with non-standard UK/Republic of Ireland and/or Overseas qualifications, or mature non-graduate students, wishing to complete the Academic Stage of training for the Bar by undertaking either the Common Professional Examination (CPE) or Graduate Diploma in Law (GDL) course. In 2011-12, 42% of BPTC students were BME;
- d) 100% of applicants for the “exercise of discretion” were BME. This type of waiver concerns students wishing to undertake the BPTC who have obtained a UK/Republic of Ireland degree below the minimum requirement of lower second class honours. As mentioned above, in 2011-12, 42% of BPTC students were BME.

6.3.3 These figures are only a small sample of the types of information we have analysed, and we will continue to monitor these trends. Our initial analysis of Qualifications Committee applications data shows that there is an over-representation of certain groups making applications. In summary, we consider that there may be potential negative impacts on the following protected characteristic groups:

- a) Age – younger people are likely to be impacted where applications relate to students;
- b) Disability – disabled people are more likely to make applications to the Qualifications Committee in relation to waivers;
- c) Pregnancy and maternity – females are more likely to make applications to the Qualifications Committee in relation to waivers;
- d) Race – people from BME groups are more likely to make applications to the Qualifications Committee in relation to waivers;
- e) Sex – females are more likely to make applications to the Qualifications Committee in relation to waivers.

6.3.4 There could also be an argument that people in these groups are potentially likely to earn less, as females, people from BME groups, and disabled people are over-represented in the publicly funded bar and in sole practice; also most students have limited access to funds. People from such groups may not therefore be able to afford expensive fees, so there could be a higher possibility of financial hardship.

6.3.5 We do not at this time think that there would be significant negative impacts on people from other minority groups (relating to the protected characteristics of gender reassignment, marriage and civil partnership, religion or belief, sexual orientation) from any changes. We would like your views on these assumptions, and invite you to tell us if we are on the right track with our thinking; or are there any concerns that we should investigate before we make a decision on the level of Qualifications Committee application fees.

- Question 19 – In your opinion, which protected characteristic groups are likely to be negatively impacted by Qualifications Committee application fee increases?
- Question 20 – Why do you think particular protected characteristic groups would be negatively impacted by Qualifications Committee application fee increases?
- Question 21 – Do you think the negative equality impacts are significant?
- Question 22 – In your opinion, should the BSB take any action to mitigate the negative equality impacts?
- Question 23 – What do you think the most appropriate mitigating actions might be?

## 7. Next steps

7.1.1 Thank you again for taking the time to participate in this consultation on how we fund ourselves. You can find out more about how the BSB is funded by visiting [our website](#).

7.1.2 This consultation was opened on 10 December 2015 and will close at 12:00pm on 15 February 2016. Please visit [our website](#) or email [contact us](#) to submit your responses. Your views are important to us and we look forward to reading them.

Response details	
Contact:	Viki Calais, BSB Business Manager  020 7611 1447  Bar Standards Board 289-293 High Holborn London WC1V 7HZ
Email:	<a href="mailto:contactus@barstandardsboard.org.uk">contactus@barstandardsboard.org.uk</a>

7.1.3 As mentioned above, the BSB consults its key stakeholders before implementing a policy decision. Your responses will provide us with an evidence base for discussions on whether non-PCF fees should increase, stay the same, or decrease. These decisions could ultimately impact upon how much the BSB draws down upon PCF funds, and how much individual barristers contribute via the PCFs. We will analyse the results over the winter with a view to making a decision before April 2016.

7.1.4 Please contact [Viki Calais](#) if you would like further information about this consultation or if you would like assistance with your responses.

7.1.5 *Table 7.1.5: Consultation timeline.*

Date	Timeline
<b>December 2015</b>	Consultation launches
<b>February 2016</b>	Consultation closes
<b>March 2016</b>	Decision on any fee changes
<b>April 2016</b>	Fee changes implemented