



Response to Consultation on fees and charges for the authorisation and supervision of Authorised Education and Training Organisations

1. The Chancery Bar Association (“ChBA”) is one of the longest established Bar Associations and represents the interests of some 1.300 members handling the full breadth of Chancery work at all level of seniority, both in London and throughout England and Wales. It is recognised by the Bar Council as a Specialist Bar Association. Full membership of the Association is restricted to those barristers whose practice consists primarily of Chancery work, but there are also academic and overseas members whose teaching, research or practice consists primarily of Chancery work.
2. Chancery work is that which was traditionally dealt with the Chancery Division of the High Court of Justice, but from 2 October 2017 has been dealt with by the Business and Property Courts, which sit in London and in regional centres outside London. The B&PCs attract high profile, complex and, increasingly, international disputes.
3. Our members offer specialist expertise in advocacy, mediation and advisory work including across the whole spectrum of company, financial and business law. As advocates, members are instructed in all courts in England and Wales, as well as abroad.

A. Do you have any comments on the BSB’s proposed approach to fees, including the application of the charging principles and other factors? Do you think we should consider any other factors?

1. The principal area on which we wish to comment relates to the proposed £870 per-capita charge by way of Authorisation Fee or Intake Fee. The number of pupillages available in any year is likely always to be substantially less than the total numbers of students who take vocational courses, meaning that many will not go on to be practising Barristers. In those circumstances, we agree that the charge should not be subsidised by the PCF. We comment on the amount of the proposed fee in answer to question 2 below.
2. Our concern relates to whether an up-front charge of the full £870 fee for the entire year is consistent with two of the core Bar training principles, namely Flexibility and Affordability (with which we agree). Not all providers of training will necessarily wish to provide a course for which the full fee is incurred at the outset. Indeed, we understand that the Bar Council and Council of the Inns of Court (COIC) are proposing a two-part vocational model which involves a first stage online study of evidence and procedure and only a proportion of those who pass the first stage will then attend the second stage covering drafting and advocacy.
3. We are not aware of the full detail of these proposals, but we understand that the intention is that the first part should be relatively cheap and that it is only those who progress to the second stage who would incur more expensive charges. These proposals seem to us to have much to recommend them, including their flexibility and relative affordability. Students who are less well-off will not have



to spend large sums on the first stage in order to find out whether they have sufficient aptitude for the Bar and, if they progress to the second stage, they will have greater confidence that the increased cost will be worth it because there will be less competition for pupillage.

4. But it is difficult to see how the BSB's proposed up-front £870 charge on all students registered on a particular course could be workable in the context of two-stage proposals such as those from COIC. Requiring all students to pay the full fee at the start of the first stage would undermine the objective of keeping the first stage relatively cheap and would result in students who are unsuccessful at the first stage effectively subsidising the smaller number of students who progress to the second stage.
5. We understand that COIC has proposed that the £870 charge should be split, with a proportion of the fee payable in respect of each stage of the course. This seems to us to be a sensible suggestion, based on our relatively limited knowledge of the COIC proposals. In any event, we urge the BSB to adapt its proposals in a way which facilitates the COIC proposals. We are strongly of the view that such flexibility will enable talented individuals to obtain significant benefits from a course of the kind proposed by COIC, at an affordable price.

B. **Do you agree with the proposed fees?**

6. We have no comments on the proposed £250 Application Fee payable by prospective AETOs or the proposed costs of reviewing information from new prospective AETOs (where applicable).
7. According to the Supplemental Note to the Consultation published in February, the proposed £870 per-capita charge by way of Authorisation Fee or Intake Fee has been calculated by dividing the estimated costs of regulation and oversight for the next six years by an average of 1,420 students per year and then adding a small contingency allowance. The estimated annual costs amount to £1,228,000 per annum. Although the Supplemental Note gives a high-level breakdown of that sum, there is no detail. This makes it difficult to comment meaningfully on the amount of the proposed fees, other than to say that regulation costs of over £1.2 million per annum appears very high.
8. One of the four core Bar training principles is Affordability. We are concerned that the cost of the regulation and oversight which is intended to achieve that goal seems likely to make training for the Bar less affordable. The Paper states that the current £585 fee is not sufficient to cover costs in full. Nevertheless, an increase of £285 (an increase of nearly 50%) to £870 suggests that the estimated



cost of regulating the new system will be greater than the cost of regulating the existing system. We do not see why this should be the case. We, therefore, urge the BSB to review its calculations with great care with a view to reducing the charge as far as practically possible.

9. Do you think the cost of the Professional Ethics Examination during pupillage/work-based learning should be charged discretely to pupils / AETOs as part of the pupillage or work-based learning component of Bar training, borne by the profession through the PCF or be funded by a combination of the two funding options?
10. We agree with the proposal that the cost of regulating ethics training should be borne by the profession through the PCF on the basis that such training is critical to the maintenance of high standards throughout the profession. We query, however, whether assessment in relation to ethics is best conducted by a multiple-choice examination, as opposed to assessment by experienced practitioners in the course of pupillage. It seems to us that the examination is not sufficiently reliable to justify its relatively high cost (equivalent to £800-900 per capita). If there is to be an examination, we certainly agree that additional re-sits should be charged to pupils.

C. Have you identified any adverse or positive equality impacts as a result of the fee model we are proposing?

11. Please see our comments above in relation to the potential impact of the proposed costs increases on those with limited means.

Chancery Bar Association Working Group (Andrew Twigger QC, Joseph Curl, Rosanna Foskett)

27/02/19