

I am responding on behalf of the Bar Standards Board to the LSB's consultation on new PCF Rules. Our response is brief and restricted to questions 5 and 6.

Question 5:

We note the requirement in the rule to engage "as many relevant authorised persons as reasonably practicable" and we agree that stakeholders should have an opportunity to contribute views. We believe, however, that the time when stakeholders can most effectively engage with determining regulatory priorities is when the regulator develops its strategic plan – this sets the organisation's priorities and we would suggest that engagement in that process may be more meaningful than seeking views on the narrower question of what the PCF should be. If a regulator has engaged stakeholders as part of its strategic planning, it should not be required to repeat the same task annually as part of the PCF process. That is not to say stakeholders should have no opportunity to express views about the PCF. But historically, response levels to the PCF consultation have been very low and we would not expect significant numbers of barristers to engage in such discussions. It will therefore be important for the LSB to take a proportionate view of what is 'reasonably practicable' in order to avoid significant resources being expended on nugatory work, whilst taking into account any broader engagement that has taken place in order to set priorities. These principles also apply in relation to the requirement for engagement on EIAs and RIAs, where prior engagement should also be taken into account.

Question 6:

We note the LSB's statement that it 'expects the level of detail required in an RIA to be proportionate to the degree of impact of the practising fee on the regulated community and the regulatory objectives'. It is important that the LSB is proportionate in its expectations of the frontline regulators and that significant additional evidence should be required only where a significant increase or decrease in PCF is proposed.

I hope this is helpful. If you would like to discuss these comments further, please don't hesitate to contact us.

Kind regards,

Ewen Macleod
Director of Strategy and Policy
Bar Standards Board