

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

**Consultation on fees and charges for the authorisation and supervision of
Authorised Education and Training Organisations (AETOs) by the Bar
Standards Board**

Supplementary Note

February 2019

Executive Summary

1. On 6 December 2018, the BSB published a consultation paper seeking views on the model we have used to determine the proposed fees we will charge Authorised Education and Training Organisations (AETOs) to consider, authorise and supervise their proposed training under the new Bar training rules and to manage the centralised examinations that form part of the qualification process for new barristers.
2. This Note offers some supplementary information in the light of questions received from consultees. The Note focuses mainly on how we have reached the proposed figures for our fees but also provides clarification on certain parts of the charging process. At the outset it is very important to emphasise that it is likely all our fees will vary over time as our actual costs change and student numbers fluctuate. Those fees that will apply next year (such as the £870 per capita fee) have been precisely calculated but those that will not apply until some time in the future (such as the fee for the Professional Ethics examination which will not come in until December 2021) are more broadly estimated. However, in every case we aim for cost recovery and will adjust our fees as necessary if there is any risk of under or over recovery. As far as possible, we want to avoid both cross subsidy from Practising Certificate Fees (unless this has been deliberately planned) and any risk that the BSB may unintentionally make a “profit” from these fees. It is therefore that principle of cost recovery and its application to AETO authorisation which is the key question for the consultation.

Supplementary Information

Investment costs

1. Paragraphs 18-20 of the consultation document refer to investment costs which we estimate to be £1.5 million over the 3 financial years 2016 – 2019. The costs include direct programme expenditure (e.g. research and development, external expertise, wide-ranging consultation), BSB direct staff costs and indirect costs including Board oversight and approval for the programme. The consultation document makes clear that it is not the intention of the BSB to seek to recover these sunk, historic costs through future fees.

Indirect costs/overheads

2. Paragraphs 21-22 refer to “Indirect Costs/Overheads”. As we explain in Paragraph 21 indirect costs, also called overheads, are the costs we incur to run the BSB and include administrative staff, rent and utilities. These are just

one of the additional factors we considered to help us develop the charging model. The others are:

- Initial Year Costs – as we say in paragraph 24, we propose smoothing these figures over a five year period and our per capita fee takes account of this approach (see paragraph 7 below)
The figures are calculated based on fixed costs (e.g. Centralised Examination Board, external expertise, standard setting etc), so essentially include everything from exam paper production to quality assurance.
- Pupillage Factors
 - Applicable Fees
 - The one-off fee of £250 is based on 0.5 days cost for BSB staff (at the appropriate grades) checking an application from a new provider who wants to offer pupillage as explained in paragraphs 39-41. This is in line with our current assessment times. A similar rationale applies to the £250 charge for vocational providers.
 - Professional Ethics – see paragraph 5 below.
- Contingency Papers for Centralised Examinations – the current cost of a contingency paper is approximately £15K for Professional Ethics and £30k each for Civil and Crime. Once the new syllabus for Civil has been agreed there will be an additional cost of £25k as there will be two Civil papers instead of one. We have included a provision for this in the figures used to calculate the per capita fee.

Professional Ethics

3. In paragraph 28 the fee for the Professional Ethics examination for pupils is estimated to amount to £800-900. It is based on the following figures:

Ongoing Costs for Examinations such as question setting, invigilation, marking, moderation and quality assurance	£274,000
Indirect Costs such as administrative staff, rent, utilities and BSB direct overheads (e.g. IT systems, corporate support, Board oversight)	£120,000
TOTAL	£394,000
Estimated number of pupils	450
Estimated cost	£875

4. The first Professional Ethics paper taken during the work-based learning stage of training will be in December 2021. We will have a clearer picture at that point of costs and numbers (e.g. venues, computer-based system, administration) so the cost is likely to change. If we can reduce these costs, which we will always strive to do, or student numbers rise, the fee will be reduced accordingly but if costs rise unavoidably or student numbers fall the fee may have to increase.

Research on other professions

5. At paragraphs 35-37 we refer to our review as to what other professional bodies charge for similar training and examinations costs and refer, by example, to the Academy of Medical Royal Colleges and the Solicitors Regulation Authority (SRA). The full list of bodies which we examined is as follows:
 - The SRA and the Qualifying Lawyer Transfer Scheme run by Kaplan on behalf of the SRA; the proposed Solicitors' Qualifying exam managed in the same way
 - The Chartered Institute of Legal Executives (CILEx)
 - The General Medical Council (GMC) - Professional and Linguistic Assessments Board Test
 - Royal College of Physicians
 - College of Optometrists
 - Quality Assurance Agency for Higher Education
 - International English Testing System
 - Royal Institute of British Architects
 - Civil Aviation Authority
 - Engineering Council
 - Institution of Civil Engineers
 - Institute of Chemical Engineers
 - Institute of Structural Engineers
 - The Institute of Chartered Accountants in England and Wales (ICAEW)
 - The Association of Chartered Certified Accountants (ACCA)
 - Association of Accounting Technicians

The Authorisation Fee

6. In paragraphs 43-45 we suggest that the per capita Authorisation Fee per student will be £870. To reach that per capita figure we estimated the following costs:

Ongoing Costs for Examinations such as question setting, invigilation, marking, moderation and quality assurance	£670,000
Ongoing Costs for Training Supervision	£260,000
Indirect Costs such as administrative staff, rent and utilities and BSB direct overheads (e.g. IT systems, corporate support, Board oversight)	£298,000
TOTAL	£1,228,000

We estimated the number of students as follows:

2020: BPTC (600); FBT¹ (900)

2021: FBT (1,550);

2022: FBT (1,550);

2023: FBT (1,550);

2024: FBT (1,550).

Students on old style BPTCs in 2020 will only pay the current contractually determined fee of £550. Our forecast average number of students for FBT is therefore 1,420.

If we divide 1,228,000 by 1,420 we get £865. We then included a 0.5% contingency to allow for any variation in costs or student numbers which takes this figure to £870. Again, this figure will rise or fall over the years depending on our costs and the number of students enrolling for Bar training.

The Intake Fee

- This is set out in paragraphs 46-48. In the first year the Authorisation Fee is in effect the first intake fee so it will be calculated using the figures at paragraph 6 above. We will only levy this fee retrospectively after authorisation when the AETO has advised the BSB as to the actual number of students enrolled. We will then multiply that number by £870 (the proposed per capita fee) to calculate the amount payable to the BSB. This mirrors the current process for BPTC providers. It is referred to as the Authorisation Fee as it is the first fee chargeable after an authorisation decision.

To be clear, an AETO will not be charged both an Authorisation Fee and an Intake Fee in respect of its first cohort of registered students. For each subsequent intake of students, an AETO will be charged an Intake Fee only.

¹ By FBT we mean those students who will be doing a Future Bar Training course rather than the current BPTC

The Authorisation Renewal Fee

8. In paragraph 49 we say that the Renewal Fees for an existing BPTC provider “will mirror those for initial authorisation”. AETOs providing the vocational component of Bar training will undergo a renewal process every 5 years. In practice this means that the first possible renewal process will be in 2024. At paragraph 50(k) of the consultation we commit ourselves to reviewing our fee model at least every 2 years and we will take mitigating action should we over / under recover. The fees and structure for renewal are based on our current best view of how the initial authorisation process will work. We expect the renewal process to be similar to that for initial authorisation so we expect the future renewal fees also to be calculated on a similar basis. The intake and renewal processes are designed to allow us to take a more thorough review at renewal and a risk-based approach to monitoring and supervision. It should be stressed that although we will continue to monitor AETOs through our annual supervision activities, our new approach will place a greater emphasis on the renewal process every five years.

The Intake Process

9. At every intake we will ask a provider whether there have been any material changes to their application. What constitutes a “material change” will not be an exhaustive list but would include events such as an extension of the pathway to other sites or a significant increase in the student cohort. We will publish guidance in this regard. Should an AETO indicate there have been no changes we will adopt a risk-based approach to supervision. If there is a declared material change, we will risk assess it, possibly ask for more information and determine what if anything we need to do.

Renewal

10. The intake responses will feed into and inform the renewal process and the degree of work involved. If an AETO has made multiple complex changes to their training, for example, we will need to assure ourselves to a much greater degree than if we are simply reauthorizing their original programme. Once again this is reflective of our risk-based approach.

Fees charged in the years following authorisations

11. It is important to stress that in the first year of authorisation the Authorisation Fee will in effect also be the Intake Fee and that in subsequent years providers

will only pay the Intake Fee until their authorisation is due for renewal. So in no year will we levy both an authorisation and an intake fee.

Equality impact assessment

12. In paragraphs 52-55 we refer to our Equality Impact Assessment which we now attach at Annex A. This includes, in Section 2, an estimate of the impact on prospective students of their having to reimburse their AETO in full for the annual fee of £870 paid by the provider to the BSB.