

Ms Sonya Gedson
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Legal Services Board
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Our Ref: HES/KC
17 September 2010

Dear Sonya,

Re: Practising Certificate fee application

Thank you for your email dated 6 September 2010.

As requested, we outline the areas of further information, using your numbering and paragraphs for ease of reference.

Clarification and additional information

1. What is the LSB being asked to approve (which fees meet the S51 definition and what are the levels)?

Specific questions:

- What is the total amount/income to be collected from practising fees? I.e. in terms of the 'ILEX 3 year Budget' received with the application, does the total amount/income to be collected from practising fees include 'Practising fees – Fellows' only?

The 3 year budget was developed before Council changed the fees. The 2011 budget will not be agreed by Council until November 2010. Because of this, differences are emerging from the 3 year budget which was put forward to the LSB

As presented to you, the 3 year budget specifies the total income from practising fees as:

- 2010 £1,540k
- 2011 £1,694k
- 2012 £1,762k

Only Fellows pay the practising fee. All other membership grades pay a subscription.

- How does the total amount/income to be collected from practising fees compare to the previous year? I.e. what is the variance?

The 3 year budget currently assumes an increase in actual practising fee income of 10% (£154k) in 2011 and a further increase of 4% (£68k) in 2012.

- What are the practising fee levels for each member who pays a practising fee?

The practising fee for each year of the 3 year budget is:

- 2010 £220
- 2011 £242
- 2012 £252

- How do the practising fee levels for this year compare to the previous year? I.e. what is the variance?

The variance in the practising fee for each year of the 3 year budget is:

- 2010 £10 (4.8%)
- 2011 £22 (10%)
- 2012 £10 (4.1%)

However, the above levels of practising fees are those we assumed in the 3 year budget submitted to the LSB in 2009. In May 2010, Council reviewed the levels of fees and subscription and after due consideration, decided to increase the practising fee for 2011 by £30 to £250, an increase of 13%

It is likely that the practising fee for 2012 will vary from the 3 year budget figure of £252. Council always debate and discuss this based on current market conditions, which explains any variation.

2. Has the budget been sensibly set and do the practising fees levels reflect what is set out in the budget?

Whilst we understand your request for more detail of our budget setting processes, we have provided as much as we can, without compromising our commercially sensitive information.

We confirm that our practising fee levels are set according to our short and medium term strategy. The process followed is rational, in that we present Council with a practising fee level paper, which includes various commercial data and information in order for them to make an informed decision. Council members, as you are aware, are Fellows, and we rely on their practitioner knowledge to set appropriate fee levels based on the commercial information which is presented to them.

It would be useful to have more detail on the 'reserves fund' explaining if it has adequate levels to meet any contingency arrangements.

ILEX has prudently built up its reserves over the years to the level that can be seen on the balance sheet in the 2009 annual report and accounts, on page 16: 'Issued capital and reserve £7,625,397'. These reserves are held as cash and cash equivalents, which at the balance sheet date had a value of £7,462,661. We consider that this level of reserves are more than adequate to meet most contingency situations and certainly sufficient to meet deficit budgets of c£100,000 - c£300,000 pa for many years. Attached is our Reserves Policy.

Further clarification would be appreciated on the difference between what is set out in the 'ILEX 3 year budget' and the text in the application which highlights the deficit figure in the budget. For example, the 'ILEX - 3 year budget' received with the application sets out a total deficit of £88,000 in 2012. This differs to what is set out in the application in that a 'nil deficits will be reached by 2012'. Will the deficit reach nil in the 2013 budget?

We anticipate that in 2013 we will break even or show a surplus. For 2012, on current planned assumptions, this should be the last financial year showing a deficit at year end. We have not yet planned for 2013.

3. What income is being raised from practising fees and other income? Where is the money from practising fee income and other income being spent (e.g. a breakdown by expenditure head and department head)?

We refer you to the ILEX 3 year budgets which clearly show this information. For clarity, it shows that the income raised from practising fees (2011 £1,694k; 2012 £1,762k) is wholly spent on regulatory activities, with a shortfall in both years of £259k and £371k respectively. The deficits are subsidised by other group income.

We have also already identified the significant fluctuations as being the LSB and OLC levies in 2011 & 2012.

None of the £1,694k practising fee income in 2011 is being spent on permitted purposes. It is all being spent on regulatory activities. The Practising fee income does not cover all of the regulatory expenses, thus the shortfall (2011 £259k, 2012 £371k) is being subsidised by other membership grade income streams (i.e. anyone who is not a Fellow).

The application also sets out that the '2011 budgets are being prepared by ILEX on a range of assumptions about income from practice fees, membership fees, examinations and commercial activities'. If available, it would be useful to have a draft copy of the 2011 budget being prepared by ILEX for our reference.

Our 2011 budgets are being presented to Council in September for final approval in November. These budgets contain commercially sensitive information which we do not consent to being published.

Once the budget has been approved, we are happy to provide you with a copy, in the format previously used for our 3 year budget plans.

4. Is the income being raised from practising fees only spent on one or more of the permitted purposes?

As mentioned in the paragraphs above, we require clarification on the total amount/income to be collected from practising fees and a breakdown of how this money is being spent by expenditure and department head which clearly identifies that the income is being allocated to one or more of the permitted purposes. We accept that we may not get a breakdown by each permitted this year, but will expect the breakdown for the practising fees cycle for next year.

We have already broken down the permitted purposes figures by department and by expense type. It is not clear what further detail you require.

Please provide a brief explanation on the meaning of 'heavily supported'.

By this we mean that we are diverting other membership grade subscription income into the permitted purposes. In 2011 for example, permitted purposes expenditure of £2,000k is provided by assessment income £890k, awarding body income £96k with the remaining £1,014k provided by membership subscription fees i.e. non-practising fee income.

5. Is the information that is provided to members on practising fees in a form that they will understand (the LSB expects the same level of information that goes to those who are required to pay practising fees i.e. clarity of understanding trumps detail but it must be explained)

We require all ARs to explain the steps you will undertake to ensure full transparency to your members that are paying the fee, to be explained to them how their money is being spent which should include a copy of the budget.

The Business Plan and 3 year budgets are on our website ([click here](#)) and hard copies are available upon request. We have been transparent to our members through articles in our monthly membership Journal, and we include an explanation of fees when subscription/practising fee letters are issued to individual members.

We will not be including a copy of our budget to all members, not only does this contain commercially sensitive information, but it would be extremely costly. Our Annual Report is on our website, as well as available in hard copy. Hard copies are sent to all Fellows.

However, to ensure full transparency to your member's that are paying the fee, it is important that it is explained to them (in a format that is easily understood) how their fee money is being spent.

Agreed, see previous response above.

It would be useful to receive a copy of the type of information which will be provided to your fee paying members.... We have suggested a Council-tax type leaflet.

A Council-tax type leaflet is not appropriate as we are not a public body. We operate in a highly competitive commercial market and do not intend to publish that level of detail.

We are attaching a copy of our subscription renewal letter.

In order to identify pure regulatory activities from more general permitted purposes, we reviewed all work areas, by department. We have defined regulatory activities, as LSB and OLC levies, and all costs associated with IPS. Where an activity is partly purely regulatory and partly a permitted purpose e.g. Law Reform, shared services and the Journal magazine we have split the cost as 1/3 to pure regulatory activities and 2/3 to permitted purposes.

6. ARs to ensure the practising fee levels do not present a barrier to entry (e.g. the impacts of increasing practising fee levels must be considered for all those required to pay the fees).

... further information is required for the rationale in increasing the all other membership fees by 10%. It would also be useful to have a brief explanation setting out the fee levels in the previous year including an explanation of any significant variance between the two years; this is to ensure that there is no barrier to entry being created to different groups who are charged with paying a practising fee.

Council discussed and agreed the 10% increase to all other membership fees based on commercial considerations, as above for practising fee levels.

The membership fee applies to all other grades. You do not need to have been a member at any other grade to join ILEX, you can join at the appropriate grade.

...we would appreciate a copy of any Equality Impact Assessments made on the practising fee arrangements or a brief explanation of how the increase in fee levels will impact those who are required to pay a practising fee.

We do not have an EqIA for our practising fee arrangements but we hope to be in a position to conduct an EqIA for future years. Council considered the issue in detail and agreed that a 13% increase would not have a detrimental impact on Fellows.

7. Regulatory arm is sufficiently funded (will be covered by IGRs but may partly explain budgetary expenses and that the budget is sensibly set in light of the regulatory activities)

...it would be useful to have a brief explanation that the budget was set in light of the expenditure on regulatory activities, which may include a brief explanation of any significant variance in income and expenditure on regulatory activities against the previous year.

Please see regulatory activities under section 5. The significant variance is due to the cost of meeting the LSB/OLC levy fees. This is the first full year for IPS (2010) and includes expenditure on applications to the LSB for additional practice rights.

IPS has a significant work plan for the next three years, not least additional applications for practice rights and to become a licensing authority, which will add considerable expense. We have allocated £167K for new projects in 2011 alone. This will be under continual review.

We hope these responses now answer your additional queries and look forward to hearing from you in due course.

Kind regards,

Yours sincerely,

Helen Simpson
Head of Corporate Affairs