

Name of Body	The Faculty Office
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	Date	Type of format received	Confirmation of receipt sent?	Document link
Receipt of full application	23/09/2010	Email	Yes	http://www.legalservicesboard.org.uk/Projects/independant_regulation/index.htm

Initial pre-application process including draft documents or correspondence received for assessment against the final application

	Yes or No	Description	Document link	Date received
Was there any correspondence received from the AR prior to the submission of the final application?	Yes	The Faculty Office (FO) wrote to the LSB on 23 March setting out their process for determining the level of practising fees and details of the consultation process. They included a timetable of submission and approval dates for their application and requested confirmation of the level of the LSB Levy before drafting the budget.	n/a	23-Mar-10
Were any documents received from the AR prior to the submission of the final application?		n/a	n/a	n/a
To what section of the final criteria do these documents relate?		n/a	n/a	n/a
Do we have any concerns arising from the documentation?		n/a	n/a	n/a
How and what have we communicated back to the AR?		We wrote to the FO on 04 May advising that: 1. the Levy will be out to public consultation during the summer and will include indicative figures payable by each AR, 2. we asked for a revised set of submission and approval dates, 3. we advised that it was acceptable to consult with notaries through the representative bodies, and 4. we highlighted the importance of transparency to their members on how their fee levels were set and how the money raised is spent, plus a breakdown of expenditure by permitted purposes.	n/a	04-May-10
What was the outcome of the exchange for correspondence?		The FO wrote to the LSB on 01 June indicating that they would determine their budget for the current financial year on the indicative level of the Levy and an application would be submitted during the month of June.	n/a	01-Jun-10
Do we have any concerns arising from this exchange?		n/a	n/a	n/a
Have these concerns been resolved?		n/a	n/a	n/a

Summary

The FO submitted their final application on 23 September 2010. They have requested that the application is considered 'expeditiously' so they may write to all notaries during the month of October to enable them to reapply for practising certificates beginning 1st November 2010. The FO have provided the necessary information in which the LSB can consider the application against the LSB's criteria for approving practising fee applications.

Overall level of concern

No concern

Section 1: Developing the application and setting the budget

This section of the criteria refers to D10a & D11a /D11d of the Practising fee Rules 2009.

Criteria - application	Yes or No	LSB Assessment
Is there a description of how the application was developed and settled?	Yes	In the letter to the LSB dated 23 March, the FO indicated that the Master of Faculties determines the level of the fee by Order. The Master formally consults the secretaries of the representative societies of the notarial profession (namely the Notaries Society and the Society of Scrivener Notaries) as to the level of fees after which the matter is discussed at a council meeting of the respective societies. After consultation with the societies and agreement by the Master, the new fees are publicised at the annual general meeting of the Notaries Society. The practice of setting the fee levels by Order and consultation with representative bodies, has not been the subject of criticism from within the profession. It also states that the fees charged are no higher than is required to cover the expense of administering the Faculty Office, with a 'small and efficient staff'.

Criteria - budget	Yes or No	LSB Assessment
Is there a description of how the budget was developed and settled?	Yes	The letter dated 23 March sets out that the fees are calculated on the basis of budgetary projections. All practising fees are put towards the permitted purposes and the main regulatory costs are for the salaries of the FO staff, NI contributions, taxes, insurance premiums and stationary. These costs are detailed in the audited FO accounts. The application sets out that the budget relies on the assumption that the number of notaries reapplying for a notarial practising certificate will remain similar to earlier years. This information is derived from the numbers of individuals known to be studying to become notaries, and from appointments and retirements in 2009.

Is there sufficient detail to make an assessment of 'reasonable care' when settling the application?	Yes	The application gives sufficient detail that reasonable care was taken when settling the application (see description of the process adopted by the FO above).
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Is there evidence that the budget was settled in light of immediate and medium term budgetary needs?	Yes	The FO proposes to increase the level of practising fee by 31% (£80) compared with the previous year. The increase is necessary to reduce the accumulated deficit from earlier years to nil and allows for the payment of the Levy which constitutes a substantial proportion of the proposed increase. FO estimates that LSB imposed charges themselves exceed £44 per notary for three years (an estimate of £35 per notary running costs of the LSB and £9 p.a. approx established costs per notary).
Is there a description of contingency arrangements?	Yes	The FO proposes to increase the practising fee level in part to reduce the deficit from earlier years to nil.
Does this include a section on the consultation undertaken with practitioners?	Yes	The FO consulted with the profession by formally writing to the secretaries of the two representative societies (the Society of Scrivener Notaries and the Notaries Society). The secretaries then consult their members and report back to the FO.
Is there a description of the revenue raised broken down between functional department and expenditure head for:	Yes	n/a
Previous year?	Yes	The FO expenditure for the financial years 2008 and 2009 are attached and itemise the purposes to which the FO practising fee income and total income has been applied (Annex 2 of the application).
Forecast year?	Yes	The items included in the 2009 expenditure reflect the nature of the expenditure which is likely to be made in 2010.
Is there a description of a significant variance from the previous year in terms of:		

Total revenue?	Yes	The FO proposes to increase the practising fee levels to reduce accumulated deficit from previous years and pay for the cost of the Levy. FO operates on a calendar year accounting period and the practising fee year runs from 01 Nov-31 Oct. Therefore the practising fee income in the 2010 budget (Annex 1 of the application) reflects the fees collected from both calendar years i.e. £45,500 (from 2009) and £236,300 (from 2010) giving a total practising fee income of £281,800 (year end 31 Dec 2010). FO total income is £325,500 (year end 31 Dec 2010) an increase from £251,229 (year end 31 Dec 2009).
Split between functional departments and expenditure heads?	Yes	The FO expenditure items for 2009 reflect the nature of the expenditure likely to be made in 2010. The Levy constitutes a substantial proportion of the total proposed increase in practising fee levels.

Overall comments

n/a

Evaluation

The application meets Section 1 in the criteria for practising fee applications issued by the LSB.

Level of concern No concern

Section 2: Permitted purposes

This section of the criteria refers to D10b & D11e/D11b of the Practising fee Rules 2009.

Criteria	Yes or No	LSB Assessment
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Overall comments

Please note that on page 2 of the application document sets out that the practising fee increase is 24%; this figure is incorrect, it should read an increase of 31%. A phone call to the FO on 11 October 2010 confirmed this was the case and the correct figure of a 31% is noted in the section above.

Evaluation

The application meets Section 1 in the criteria for practising fee applications issued by the LSB.

Level of concern No concern

Is there evidence that the revenue raised through practising fee charge are applied solely to the permitted purposes?	Yes	The application sets out that all FO revenue from notarial practising fees is expended on permitted purposes, and almost entirely on the regulation and accreditation of notaries. The letter of 23 March sets out that no money is expended upon representative functions of which the FO has none. The FO also sets out in their budget the payment of the Levy.
Previous year?	Yes	See above
Forecast year?	Yes	See above
Does it include a budget that shows:		
Anticipated income from practising fees	Yes	The budget year end 31 December 2010 (Annex 1 of the application) sets out a total practising fee income of £281,800 for FY end 31 December 2010.
All other expected income to be applied to permitted purposes	Yes	The budget year end 31 December 2010 sets out total income for year end 2010 of £325,500. As noted above, the FO has no representative functions and revenue from notarial practising fees is expended on permitted purposes.
Planned expenditure of income against permitted purposes	Yes	The application notes that the items included in the 2009 expenditure (Annex 2) reflect the nature of the expenditure which is likely to be made in 2010.
Does it include an analysis of spend against the permitted purposes?	Yes	The application gives an analysis of the LSB Levy to be paid in instalments.
Is this broken down by functional department / expenditure head?	Yes	Annex 1 and 2 of the application sets out a breakdown of expenditure by item.

Overall comments

n/a

Evaluation

The application meets Section 2 in the criteria for practising fee applications issued by the LSB.

Level of concern **No concern**

Section 3: Regulatory functions

This section of the criteria refers to D10c D10d & D11c of the Practising fee Rules 2009.

Criteria	Yes or No	LSB Assessment
Is there an explanation of how the revenue raised by practising fees is applied to - i.e.		
Permitted purposes which are regulatory functions (not representative)	Yes	The application sets out that all FO revenue from notarial practising fees is expended on permitted purposes, and almost entirely on the regulation and accreditation of notaries. The letter of 23 March sets out that no money is expended upon representative functions of which the FO has none. The FO also sets out in their budget the payment of the Levy.
Permitted purposes which are not regulatory functions		See above
Is there clarity and transparency of how the revenue raised is to be applied to - i.e.		
Permitted purposes which are regulatory functions (not representative)	Yes	See above
Permitted purposes which are not regulatory functions		The FO has no representative functions.

Overall comments

n/a

Evaluation

The application meets Section 3 in the criteria for practising fee applications issued by the LSB.

Level of concern: **No concern**

Section 4: Clarity and transparency

This section of the criteria refers to D10e of the Practising fee Rules 2009 & section 51(b) of the Act

Criteria	Yes or No	LSB Assessment
Consultation with members		
Does the application include a description of their consultation undertaken with their members mandated to pay practising fees?		n/a
If yes, does the description of the consultation process include transparency and clarity of how the fee level has been set and how the money collected will be used?		n/a
If yes, does the application also include a description of how that feedback influenced the decision-making and policy development processes?		n/a

Is the level of information provided to members similar to what has been provided in the criteria?		n/a
In terms of the level of information provided to members, does the application include the recommended use of the 'Council Tax bill' analogy and/or another form of web-based linked information?	Yes	The FO intend to include an explanatory note with the application forms for the renewal of practising certificates which will be sent to all practising notaries as to the level of the fees or reference to such information being available to read on the FO website (and on request).
If yes, when was this information issued to the mandated members paying the practice fees i.e. as the fee note issued or shortly afterward?	Yes	See above.
Consultation with representative governing councils or the equivalent		
Alternative to the above, does the application set out that changes to the practising fee arrangements are minimal, and consultation was therefore only involved representative governing councils or the equivalent?	Yes	As set out in Section 1 of this document, the FO consulted with the profession by formally writing to the secretaries of the two representative societies (the Society of Scrivener Notaries and the Notaries Society); the secretaries then consult their members and report back to the FO.
If yes, is there a description of what consultation that was taken place?	Yes	Through the consultation process set out above, the FO provided the representative societies with accounts from the previous financial year, the budget attached in Annex 1 of the application and a note of how the level of the fees has been determined.
If yes, does the application also include a description of how that feedback influenced the decision-making and policy development processes?	Yes	The FO received no adverse comment in relation to the practising fee proposals. The Secretary of the Society of Scrivener Notaries advised the Registrar on 14 September that the proposed fees were acceptable.

Overall comments

We wrote to the FO on 04 May advising that it was acceptable to consult with their notaries through their representative bodies, but highlighted the importance of transparency to their members on how their fee levels were set and how the money raised is spent, plus a breakdown of expenditure by permitted purposes. Considering the size of the FO staff and the number of members they regulate the LSB considers this a proportionate approach for this year's practising fee round.

Evaluation

The application meets Section 4 in the criteria for practising fee applications issued by the LSB.

Level of concern: **No concern**

Section 5: Regulatory and diversity impact assessment

This section of the criteria refers to D11f of the Practising fee Rules 2009

Criteria	Yes or No	LSB Assessment
Does the application include a regulatory or diversity impact assessment?		Please note the LSB set out in Section 5 of the criteria for practising fee applications that we do not require a regulatory or diversity impact assessment to be completed for this year's practising fee applications.
If no, does the application include a description of how their proposals were tested against the regulatory principles?		n/a
Does the application include a description of how the proposals have been developed with consideration of any potential impact on diversity issues?	Yes	The FO sets out that setting variable fees (similar to the SRA) was considered not appropriate for notaries because the vast majority are sole-practitioners. The FO also noted that the Bar Vocational Council (BVC) have considered setting variable fees depending upon the year of call or whether they have been given silk. The FO considered it a disproportionately burdensome exercise to calibrate notarial fees on a means-tested basis, and considered that this could give rise to obvious unfairness if the calculation was conducted without the fullest of information about the notary's practice.

Overall comments

The FO do not consider that the level of fees will have any adverse effect on the diversity of the profession. The FO sets out that without a variable fee (which has been discounted for the reasons above) it would not be possible to effect a system which is fairer than requiring a single fee for each notary.

Evaluation

The application meets the requirements for Section 5 in the criteria for practising fee applications issued by the LSB.

Level of concern: **No concern**

Section 6: Consultation with non-commercial bodies and the Consumer Panel

This section of the criteria refers to D12 of the Practising fee Rules 2009 & Section 51 (7) (a) of the Act

Criteria - non-commercial bodies	Yes or No	LSB Assessment
Does the application include a description of steps the AR has taken to ensure the impacts of the persons providing non-commercial legal services have been considered when setting the fees?		n/a
Has the AR shared details of the practising fee level with appropriate bodies such as the Law Centres Federation, Citizens Advice and Advice Service Alliance in advance of the submission of the application?		n/a
Have the non-commercial bodies provided any response to the details shared to them by the AR?		n/a

Overall comments

The application does not set out any consultation with non-commercial bodies. The FO do not consider that the level of fees will have any adverse effect on the diversity of the profession and that a single fee for each notary was considered a fairer option of charging fees than a variable fee as adopted by the SRA and or a means-tested basis similar to the BVC.

Evaluation

The application in terms of the criteria relating to non-commercial bodies relating to Section 6 of the criteria for practising fee applications as issued by the LSB is deemed acceptable as diversity considerations have been considered for the wider notaries profession.

Level of concern: **No concern**

General Evaluation

Summary of LSB assessment - i.e. Approval and/or approval with conditions or rejection

Criteria - Consumer Panel/others	Yes or No	LSB Assessment
Have we provided a copy of the application to the Consumer Panel?	Yes	Application sent to Consumer Panel Manager on 06 October 2010.
What are their immediate concerns or issues raised (if applicable)?		A nil response received from the Consumer Panel.
Have we considered if we need to consult with anyone else on this application?	Yes	n/a
If yes, what consultation has taken place and with whom?		n/a
What was the outcome of this exchange i.e. Do we have any immediate concerns that has the potential to delay the approval of the application?		n/a

Overall comments

n/a

Evaluation

The application in terms of the criteria relating to the Consumer Panel and Others meets Section 6 of the criteria for practising fee applications as issued by the LSB.

Level of concern: **No concern**

The Practising Fee Team recommends the approval of the FO application.