

Name of Body	ILEX
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	Date	Type of format received	Confirmation of receipt sent?	Document link
Receipt of full application	20/09/2010	Email	Yes	http://www.legalservicesboard.org.uk/Projects/independent_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?		n/a	n/a	n/a
Were any documents received from the AR prior to the submission of the final application?	Yes	We received the application for the approval of the proposed practising fees from ILEX on 04 August 2010.	n/a	04-Aug-10
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?	Yes	The application received from ILEX on 04 August 2010 was considered against the LSB's criteria for practising fee applications and as an initial assessment, further information was needed before the application could be considered for approval.	n/a	n/a
How and what have we communicated back to the AR?		An email was sent to ILEX on 06 September requesting clarity and further information on specific parts of the application that were unclear or ambiguous.	n/a	06-Sep-10
What was the outcome of the exchange for correspondence?		A letter received from ILEX on 20 September 2010 providing the information requested from the LSB.	n/a	20-Sep-10
Do we have any concerns arising from this exchange?		In addition, a phone call was made to the working heads of ILEX on 27 September asking for further information on the involvement of IPS in setting the budget and how the shared services are split between IPS and the relevant ILEX departments.	n/a	27-Sep-10
Have these concerns been resolved?	Yes	The information was received from ILEX and further confirmation was given via an email on 29 September that the issues discussed were accurate in relation to the budget.	n/a	29-Sep-10

Summary

ILEX 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
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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	Similar to the process followed in settling the budget the application gives detail on the process that was followed in ensuring a rational process was following when settling the application (see box below).

Criteria - budget	Yes or No	LSB Assessment
Is there a description of how the budget was developed and settled?	Yes	In addition to the process followed when settling the application, a number of assumptions were made in developing the budget. These include growth in turnover and profit by ILEX Tutorial College (ITC); increase in assessment fees as the new professional qualification beds in and the number of subjects available for examination after 2010 increases; and that the number of Legal Executives and other members remains steady throughout the 3 year period. The LSB accepts the reasoning from ILEX that more detail on the budget setting process such as actual figures for the assumptions listed above cannot be provided as this would compromise their commercially sensitive information.

<p>Is there sufficient detail to make an assessment of 'reasonable care' when settling the application?</p>	<p>Yes</p>	<p>The application sets out that the direct budget for IPS had been developed by the IPS Board and included within the overall ILEX budget. ILEX also indicated that the budget setting process included presenting the ILEX Council with a practising fee level paper, which includes various commercial data and information to inform their decisions. ILEX Council members are Fellows and are relied on for their practitioner knowledge to set appropriate fee levels based on current commercial information. A further conversation with ILEX confirmed that the IPS Board set their own budget based on the income they needed to carry out their regulatory functions. ILEX and IPS then attend joint budgetary meetings to discuss the total income needed for IPS to be sufficiently funded and from there the ILEX Council sets the practising fee. IPS are involved in the budget setting meetings but, the ILEX Council that makes the final decision on setting the practising fee levels.</p>
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<p>Is there evidence that the budget was settled in light of immediate and medium term budgetary needs?</p>	<p>Yes</p>	<p>ILEX confirmed that their practising fee levels are set according to short and medium term strategy. ILEX confirmed that LSB set up and operating costs, over a three year period are being funded from reserves and increases in practising certificate fees. The application also sets out that the budget will 'break even' or show a surplus in 2013. Based on current planned assumptions, 2012 should be the last financial year showing a deficit at year end.</p>
<p>Is there a description of contingency arrangements?</p>	<p>Yes</p>	<p>ILEX has prudently built up its reserves over the years to the level set out in the balance sheet of the Annual Report & Accounts 2009' (pg.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. ILEX 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. The ILEX reserves policy was provided as supporting information to the application.</p>

Does this include a section on the consultation undertaken with practitioners?		There was no consultation undertaken with members or other stakeholders in the setting of the 2010 budget and ILEX have not consulted the membership this year for the 2011 practising fee increases. The application indicates that ILEX is now planning its consultation for 2011 regarding the 2012 practice fee. The LSB acknowledges that we do not have any additional requirement for consultation with member's beyond what has already undertaken, however, we require all ARs to explain the steps they will undertake to ensure full transparency to 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.
Is there a description of the revenue raised broken down between functional department and expenditure head for:	Yes	n/a
Previous year?	Yes	This information is included in the ILEX 3 Year Budget supplied as a supporting documents received with the application.
Forecast year?	Yes	This information is included in the 3 Year Budget supplied as a supporting documents received with the application.
Is there a description of a significant variance from the previous year in terms of:	Yes	n/a
Total revenue?	Yes	n/a
Split between functional departments and expenditure heads?	Yes	ILEX have identified in the 3 year budget that there are significant fluctuations as being the LSB and OLC levies in 2011 & 2012.

Overall comments

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
Is there evidence that the revenue raised through practising fee charge are applied solely to the permitted purposes?	Yes	The ILEX 3 year budget 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.
Previous year?	Yes	The ILEX 3 year budget specifies the total income from practising fees as: 2010 £1,540k, 2011 £1,694k and 2012 £1,762k.
Forecast year?	Yes	See above
Does it include a budget that shows:		
Anticipated income from practising fees	Yes	See above
All other expected income to be applied to permitted purposes	Yes	All other income has been set out in the ILEX 3 year budget.
Planned expenditure of income against permitted purposes	Yes	See explanation below.

The LSB does not require an AR to conduct consultation on their practising fee levels beyond what has already been undertaken this year. Please see details in Section 4: Clarity and transparency.

Evaluation

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

Level of concern **No concern**

Does it include an analysis of spend against the permitted purposes?	Yes	The application sets out that 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). ILEX set out that permitted purposes expenditure is heavily supported across the whole membership. By this it means that ILEX 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.
Is this broken down by functional department / expenditure head?	Yes	The application provides a breakdown by department and expense type.

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.		n/a

Permitted purposes which are regulatory functions (not representative)	Yes	The application refers to the IGR process in that all regulation is undertaken by IPS. ILEX have assumed that all of IPS activities are regulatory expenditure, as is the costs to ILEX of the LSB and OLC.
Permitted purposes which are not regulatory functions	Yes	ILEX have set out in their 3 Year budget the activities which relate to permitted purposes which are not regulatory.
Is there clarity and transparency of how the revenue raised is to be applied to - i.e.		n/a
Permitted purposes which are regulatory functions (not representative)	Yes	ILEX have advised that in order to identify pure regulatory activities from more general permitted purposes, ILEX reviewed all work areas by department and where an activity is partly purely regulatory and partly a permitted purpose e.g. law reform, shared services and the Journal magazine, the cost was split as 1/3 to pure regulatory activities and 2/3 to permitted purposes. This is shown in the ILEX 3 Year budget where the expenditure on regulatory activities ('Reg') and other activities which are permitted purposes ('PP') have been split into two columns.
Permitted purposes which are not regulatory functions	Yes	See above

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?		No consultation with members. See Section 1 above for further details.

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?	Yes	LSB has emphasised that we require all ARs to explain the steps it will undertake to ensure transparency to their members that are paying the fee, to be explained to them how their money is being spent (in a format that is easily understood) including a copy of the budget. ILEX have provided transparency to members through articles in their monthly membership Journal, and including an explanation of fees when subscription/practising fee letters are issued to individual members. The LSB accepts that ILEX will not be including a copy of their budget to all members, as it contains commercially sensitive information and would be costly; however, the 3-year budget supplied with the application is available on ILEX's website. The ILEX Annual Report is on the website and hard copies are sent to all Fellows. ILEX also provided a copy of a letter from the CEO to all Membership Subscriptions containing practising fee information.
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?	Yes	
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 Business Plan and 3 year budgets are on ILEX website and hard copies are available upon 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	ILEX provided a copy of a letter from the CEO to all Membership Subscriptions containing practising fee information which will be sent to members.
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?		n/a
If yes, is there a description of what consultation that was taken place?		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
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Overall comments

n/a

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?		ILEX do not have an EIA for their practising fee arrangements but they hope to be in a position to conduct an EIA for future years.
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	Council considered the issue in detail and agreed that a 13% increase in practising fees for 2011 to £250 each Fellow (up £30 from £220 in 2010) would not have a detrimental impact on Fellows.

Overall comments

ILEX has a developed Equality and Diversity Policy. It has a developed action plan designed to improve continuously its approach to E&D. All policy decisions taken by the Council have regard to Equality and Diversity issues and the impact that any decision may have on E&D.

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?	Yes	In regard to consultation with non-commercial bodies, ILEX sets out that Legal Executives are regulated and pay practice certificate fees as individuals. There is no direct or substantive impact on non-commercial legal services provided.
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?	Yes	ILEX further states that information regarding ILEX proposals will be available via the ILEX website and will be brought to the attention of the bodies referred to.
Have the non-commercial bodies provided any response to the details shared to them by the AR?		n/a

Overall comments

n/a

Evaluation

The application meets Section 6 in the criteria for practising fee applications issued by the LSB.

Level of concern: **No concern**

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 21 September 2010.
What are their immediate concerns or issues raised (if applicable)?		n/a
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**

General Evaluation

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

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