

Bar Standards Board (BSB) - entities

Part One: summary and recommendation

Summary

LSB has approved BSB’s application to enable it to authorise and regulate entities. BSB intends charge an entity application fee, an entity authorisation fee and an annual entity fee.

The authorisation and annual fees are a condition of entity authorisation and are therefore ‘practising fees’ under section 51 of the Legal Services Act 2007 (the Act) meaning that LSB must approve the level of the fee. The application fee must be paid upon application to BSB by all potential entities and is therefore an administrative charge not covered by section 51.

The proposed fees have been based on assumptions about likely take-up and will be charged on a cost recovery basis. The proposed fee levels will vary depending on size and are as follows:

Entity Category	Application fee (£)	Authorisation fee (£)	Total authorisation fee (£)	Annual fee (£)
Single person entity	260	330	590	365
2-5 person entity	725	875	1600	1000
6-15 person entity (simple)	1000	1200	2200	1450
6-15 person entity (complex)	1350	1600	2950	2000
15+ person entity	1950	2300	4250	2900

Given that these fees are intended to directly cover the cost of entity regulation, many of the areas LSB would usually assess (such as spend on non-regulatory permitted purposes) are not relevant to this application. We will discuss with BSB plans for combining its entity practising fee application with its application to LSB for approval of individuals’ practising fees in due course.

Recommendation

- Recommend that the application is approved and that the decision letter remind BSB of a commitment to consider combining the section 51 approval process for individuals and entities in the future.

Part Two: Assessment of the application against LSB acceptance criteria

Pre-submission

1. Were there any pre-submission discussions or a draft application; were any issues identified	Yes – we have discussed BSB’s approach to entity fees at our regular entity regulation meetings with BSB. BSB provided LSB with a draft of the fees consultation. The only issue we identified was reference to covering costs associated with criminal record checks. This does not apply to entity regulation and was therefore removed.
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<p>2. Were there any areas for improvement or specific issues in the last approval letter</p>	<p>N/a – this is the first time BSB has set entity application fees. There are no specific issues from our last approval letter of BSB’s practising fees for individuals and are satisfied that there were no specific issues which should have been addressed by this entity application.</p>
Developing the application and budget	
<p>3. Is it clear that the regulatory arm has led the development of the application?</p>	<p>Yes – this is a regulatory fee only and set on a costs recovery basis.</p>
<p>4. <i>Budget</i></p> <ul style="list-style-type: none"> • Is it clear how the budget has been arrived at • Is there evidence that the immediate and medium terms needs have been taken into account • Are the contingency fund arrangements clear 	<p>Yes – the consultation paper, included with the application, provides a breakdown of anticipated costs (paragraph 8). The paper goes on to provide narrative for each of the cost categories (staff, external expertise, executive support and central services).</p> <p>The paper anticipates that initially, costs will exceed income. The initial losses will be recovered over a three year period. BSB anticipates that the full cost of authorisation and supervision of entities will have been recovered by 31 March 2018.</p> <p>During the assessment process, we asked BSB how it intends to cover costs should take-up be much lower than expected. It assured us that regardless of take-up, it would review fee levels and revisit assumptions after the first year of operation. This may lead to adjustments to the fees where necessary and any surplus or deficit will be factored into this. Other options include reducing the costs of the delivery of the service to reflect the levels of income.</p>
<p>5. <i>Consultation</i></p> <ul style="list-style-type: none"> • Has the proposed fee been consulted on – if so summarise • Was the consultation clear about the level of fee and how it will be collected • Has feedback been fully considered 	<p>Yes – the consultation paper forms the main basis of the application. It clearly set out the varying levels of fees (paragraph 5) what fees are payable at which stage.</p> <p>BSB received four responses to the consultation. In light of feedback that the estimated number of single person entities was too low, BSB increased its estimate, meaning a £25 reduction in the originally proposed annual fee for single person entities.</p>
<p>6. <i>Clear and transparent</i></p> <ul style="list-style-type: none"> • Is the information provided to fee payers on the level of fee clear and transparent • When was/is this issued to fee payers 	<p>Yes – a clear breakdown of the level of fees by entity size was provided in the consultation paper.</p> <p>During the course of the assessment we asked BSB about its plans for communicating the fees. It responded to say that it would be issuing a ‘frequently asked questions’ document, providing information about the fees and plans</p>

	to publish the consultation report on the website shortly.
Permitted purposes	
7. Is there evidence that the PCF income is used solely for permitted purposes	Yes – the fees are operating on a cost recovery basis.
8. Is any other income to be applied to permitted purposes	N/a – the fees are operating on a cost recovery basis.
Regulatory functions	
9. Is there evidence of how much of the PCF income is applied to permitted purposes that are regulatory functions	Yes – fees will be applied to regulation of entities only.
10. Are any shared services clearly explained	Yes – paragraphs 8 and 14 of the consultation paper cover central services. BSB estimates that £149k will be spent on corporate services in relation to entity regulation. This figure is the cost of HR, IT and finance and a percentage of the costs of the premises, calculated as a proportion of the overall cost to BSB, based on staff time spent on entity regulation.
11. Regulatory and equality impact assessment (optional requirement)	
<ul style="list-style-type: none"> Completed and included? If not included, is there an explanation of the potential impact Does the application contain commentary on the regulatory objective and the Better Regulation Principles 	No
12. Consultation with non-commercial bodies	
<ul style="list-style-type: none"> Does the application include a description of the steps taken Have the proposed fees been shared with such bodies What was the response 	No specific consultation with non-commercial bodies.
13. LSB Review	
Have we consulted with any other body on the application	No
Were any issues raised by LSB colleagues from the first review	<p>Yes – a Board Member sought assurance on what would happen if the number of entities is much lower than expected.</p> <p>The Chief Executive queried whether the proposed fees were in line with other approved regulators undertaking entity regulation. We reviewed other approved regulators' entity fees and are satisfied that this is the case.</p>

Karen Marchant

28 November 2014