

FACULTY OFFICE

APPLICATION TO LEGAL SERVICES BOARD FOR APPROVAL OF PRACTISING FEES 2015/16

Introduction

On behalf of the Master of the Faculties ('the Master') we are making the above application under section 51 of the Legal Services Act 2007 ('LSA 2007') and the Practising Fee Rules 2009 made by the Legal Services Board ('LSB') under that Act.

Background

Notaries are required to apply for a certificate to practise from 1st November to 31st October in the following year. Following approval by the LSB, the Master made new rules governing the issue of a practising certificate to a notary (Notaries (Practising Certificates) Rules 2012) which came into force on 1st October 2013. The Rules set out a clear timetable for applying to renew a practising certificate and make it clear that it is both an offence under S.14 of the LSA 2007 and Notarial Misconduct under the Notaries (Conduct and Discipline) Rules 2011 to practise otherwise than in possession of a current valid practising certificate. A fee is required to be paid for the practising certificate, and a contribution must be paid to the Faculty Office Contingency Fund at the same time. The level of the fee and contribution is determined from time to time by the Master. If a notary applies for a practising certificate part-way through a practising year he/she must pay the full amount which was due on 1st November of that period.

Proposals

- In the practising year 1st November 2014 - 31st October 2015 notaries paid the following fee and contribution:-

Practising certificate - £450
Contribution to Contingency Fund - £80

- In the practising year 1st November 2015 - 31st October 2016 the Master intends to set the following fee and contribution:-

Practising certificate - £450 (no increase)
Contribution to Contingency Fund - £80 (no increase)

Permitted purposes

Rule 5 of the Practising Fee Rules requires that monies raised through practising fees must not be applied for any purpose other than one or more of the permitted purposes. The Faculty Office has never had any representative functions. The profession is instead served by two representative societies, the Society of Scrivener Notaries and The Notaries Society. The distinction between these functions is clarified in the statement of compliance with the LSB Internal Governance Rules 2009 made by the Master. As such, all Faculty Office revenue from notarial practising fees is expended on the permitted purposes, and almost entirely on the regulation and accreditation of notaries. The Faculty Office expenditure for the financial years 2013 and 2014 are

attached and itemise the purposes to which Faculty Office revenue has been applied (annex 2).

The items included in the 2014 expenditure reflect the nature of the expenditure which is likely to be made in 2015 save as outlined below.

Reasons for proposed fee and contribution

The Faculty Office operates a calendar year accounting period. The 2015 budget is also attached (annex 1). As the practising year does not coincide with either the LSB/OLC financial levy year or the Faculty Office accounting year the budget reflects that fees will be collected from both practising years. The budget relies on the assumption that the number of notaries reapplying for a notarial practising certificate will be slightly up on last year. This information is derived from the numbers of individuals known to have passed the Notarial Practice course this summer and entitled to apply for admission as notaries, and from appointments and retirements in 2014.

The Master was pleased to note that the charges levied by the LSB and the Office for Legal Complaints (“OLC”) have reduced slightly over the last couple of years in real terms and hopes that this trend will continue.

Given the anticipated slight increase in practising notaries we are pleased that we have been able to maintain the practising fee at last year's level of £450.00.

The 2014 accounts for the Faculty Office Contingency Fund are attached (annex 3). For several years claims on the Contingency Fund were low. However, over the last three years there have been a small number of relatively low claims on the Fund and one very significant one which we referred to in last year's application.

As anticipated last year, the Master believes that it is necessary to maintain last year's contribution level of £80.00 in order to build up the Contingency Fund to a viable amount in order to provide for extraordinary expenditure on discipline related matters from time to time. It remains our hope to be able to reduce this contribution in the following years. Both Societies are fully aware of the financial situation of the contingency fund.

In order to ensure that costs in future disciplinary cases are kept to more realistic levels whilst maintaining a process that is fair and accountable both to complainants and the profession, we are introducing new Conduct and Discipline Rules which will include provision for a scale of fees Order. The draft rules were lodged with the Legal Services Board this week.

Form of consultation with the profession

The Faculty Office has consulted with the profession by formally writing to the secretaries of the two representative societies, the Society of Scrivener Notaries and the Notaries Society which together represent nearly 97% of the practising members of the profession. The Joint Registrars attended a meeting of the Notaries Society Council in April to which they submitted a report including the practising certificate fee proposal for the coming year. In turn the secretaries are able to consult their members and report back to the Faculty Office. The representative societies are

provided with the accounts for the previous financial year, the attached budget (annex 1) and a note of how the level of the fees has been determined.

The Master is pleased that we have been able to maintain the Practising Certificate fee at the same level for the second year running and that, as a result of last year's increase in the Contingency Fund contribution, the level of the fund has begun to recover.

Reasons for maintaining a fixed fee

As in previous years, we have opted to retain a fixed practising certificate fee as we are not yet persuaded that there is any practical alternative system which could be introduced which would be both fair and acceptable to the profession whilst at the same time not being a disproportionately burdensome exercise to try to calibrate notarial fees on some form of 'means-tested' basis.

Diversity impact

We do not consider that the level of the fees will have an adverse impact on the diversity of the profession or those seeking to enter the profession. Additionally, without a variable fee (which remains discounted for the reasons above) it would not be possible at this time to effect a system which is any fairer than requiring a single fee for each notary.

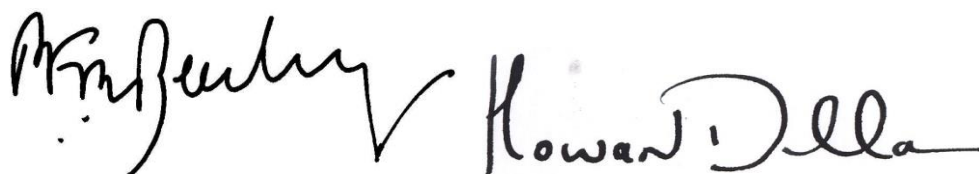
Contact information

Further information relating to this application is available from:-

The Joint Registrars, The Faculty Office, 1 The Sanctuary, Westminster, London, SW1P 3JT

email. faculty.office@1thesanctuary.com

telephone. 020 7222 5381 (please ask to speak to Neil Turpin, Clerk)

The image shows two handwritten signatures in black ink. The signature on the left is 'P.F.B. Beesley' and the signature on the right is 'H.J. Dellar'. Both signatures are written in a cursive, flowing style.

P.F.B.BEESLEY
JOINT REGISTRAR

H.J.DELLAR
JOINT REGISTRAR

8 July 2015

ANNEX 1

FACULTY OFFICE NOTARIAL BUDGET YEAR ENDED 31 DECEMBER 2015

NOTARIES	£	£
Income:		
14 certificates @ £450 (balance 2014/15)	6,300	
780 certificates @ £450	351,000	
Appointments (22 @ £575)	12,650	
Overseas Appointments (10 @ £625)	6,250	
Jersey Exam Fees	7,500	
Notarial qualification information packs	2,200	
Certificates of Exemption (80 @ £100)	8,000	393,900
Less Expenditure:		
Management Charge	274,800	
Direct Expenditure	76,250	
Legal Services Board fee 2014/15	25,000	376,050
Projected Notaries Surplus		£17,850

SUMMARY OF NOTARIAL SURPLUS/SHORTFALLS 2010-2014

b/f from 2010	2011	2012	2013	2014	Retained Surplus/Shortfall in 2014 Accounts
£2,412	£28,260	-£3,534	£20,119	£21,326	£48,529*

*Although the accumulated surplus at 31/12/2014 stands at £48,529, £20,000 of that is a fund to pay for the inspections, so that the accumulated surplus of unrestricted funds stands at £28,529.

ANNEX 2

FACULTY OFFICE

NOTARIAL FEES AND EXPENSES YEAR ENDED 31 DECEMBER 2014

	2014		2013	
	£	£	£	£
Notarial and Practising				
Certificates Fees		364,315		395,295
Notarial Admission Fees		31,575		14,200
		<u>395,890</u>		<u>409,495</u>
LESS:				
Expenditure – Indirect				
Registrar’s Fees	13,275		12,736	
Rent and rates	33,370		32,899	
Light and heat	2,055		2,025	
Stationery & Copying	4,726		5,187	
Postage	1,999		2,325	
Telephone	2,641		2,365	
Repairs and maintenance	15,923		33,871	
Insurance	2,973		3,006	
Sundries	6,423		6,724	
Cleaning	3,051		3,191	
Catering	1,211		793	
Irrecoverable VAT	17,529		21,025	
	<u>105,176</u>		<u>126,147</u>	
Expenditure - Direct				
Salaries & N.I. (jointly employed staff)	202,201		194,570	
Recovery of Staff Costs on Imison Complaint	(13,376)		0	
Entertaining	3,705		3,707	
Travel	2,278		174	
Crown Office fees	315		340	
Accountancy	2,464		2,688	
Printing and stationery	5,892		6,366	
Counsel’s Opinion	1,800		0	
Less: Contribution to Counsel’s Opinion from The Notaries Society & The Scriveners	(1,200)		0	
Website	5,524		4,846	
Sundries	205		39	
Recruitment Faculty office Clerk	-		2,663	
Inspections Expenses	10,386		-	
Admission Expenses	4,075		2,449	
Legal Services Board Levy	25,389		25,976	
Insurance	8,895		8,058	
	<u>258,553</u>		<u>251,876</u>	
		<u>(363,729)</u>		<u>(378,023)</u>
Retainer due to the Master of Faculties		32,161		31,472
		<u>(10,835)</u>		<u>(11,353)</u>
Surplus		<u>£21,326</u>		<u>£20,119</u>

The accumulated surplus at 31/12/2014 stands at £48,529, £20,000 of which is to pay for the Inspections, so that the effective accumulated surplus is at £28,529.

The income from Practising Certificates of £364,315 shown in these accounts arises from the Notarial practising year which ends on 31/10/2015 and will be used towards the running of the Notarial Profession.

ANNEX 3

FACULTY OFFICE - CONTINGENCY FUND

INCOME ACCOUNT

YEAR ENDED 31 DECEMBER 2014

	£	2014	£	£	2013	£
CONTRIBUTION FROM NOTARIAL PRACTISING CERTS			62,400			40,560
Bank deposit interest			7			12
Less:						
Expenses for Disciplinary Hearings	83,312			960		
Provision for income tax	2			2		
Fees re Income tax payment	300			300		
			(83,614)			(1,262)
Shortfall (surplus) for the year			(£21,207)			£39,310

BALANCE SHEET

AS AT 31 DECEMBER 2014

	£	2014	£	£	2013	£
ASSETS						
Deposit and current accounts	16,708			22,345		
Sundry Debtors	56,085			71,655		
LESS LIABILITIES			72,793			94,000
Sundry creditors	300			300		
Income tax payable	2			2		
NET CURRENT ASSETS			(302)			(302)
			£72,491			£93,698
REPRESENTED BY:						
Contingency Fund Capital Account						
Balance as at 1 January	93,698			54,388		
Shortfall for year	(21,207)			39,310		
Balance at 31 December			£72,491			£93,698

ACCOUNTANTS' REPORT

We have prepared, without carrying out an audit, the above balance sheet and accounts from the Registrar's records and from information and explanations supplied to us.

haysmacintyre
haysmacintyre
Chartered Accountants

26 Red Lion Square
London WC1R 4AG
Date... *6 May 2015*