

## Practising Certificate Fee (s51) application assessment

### The Faculty Office

#### Part One: Summary and recommendation

<b>Summary</b> <ul style="list-style-type: none"><li>• Total budget for 2015/16 £393,900; amount to be raised from PCF, £357,300 (Approximately 91%)</li><li>• Proposed fee for 2015/16 remains at £450, remaining the same as the fee for 2014/15.</li><li>• Contribution to the Contingency Fund remains the same as for 2014/15 at £80</li></ul>
<b>Recommendation</b> <ul style="list-style-type: none"><li>• The application be approved</li><li>• The approval letter:<ul style="list-style-type: none"><li>▪ comments that the LSB welcomes the proposal to maintain the level of PCF and contribution to the Contingency Fund at the same level as for 2014/15.</li><li>▪ notes the action that the Master of the Faculties is taking to implement changes to its discipline procedures with the aim of reducing the risk of significant calls on its Contingency Fund</li><li>▪ states that the LSB is encouraged that the Master of the Faculties hopes to be in a position to reduce the level of contributions to the fund in future years, but that if it cannot do so, the LSB expects a detailed explanation as to the reasons in its 2016/17 application, and a clear indication of when the Master of the Faculties considers it might be able to reduce the level</li></ul></li></ul>

#### Part Two: Assessment of the application against LSB acceptance criteria

Pre-submission	
Were there any pre-submission discussions or a draft application; were any issues identified	No meeting or draft application
Were there any areas for improvement or specific issues in the last approval letter	<i>Last approval letter 18 August 2015</i>  Commented on doubling of increase in contribution to Contingency Fund from £40 to £80. Concerned how the Master of the Faculties would minimise the risk of further large calls on the fund from disciplinary cases. Reassured that the Master of the Faculties was exploring ways of ensuring that costs in future disciplinary cases were kept to more realistic levels while maintaining a process that is fair and accountable, both to complainants and the profession. We also hoped that the additional inspection powers which the Faculty Office now has will enable it to gather evidence which can

	inform the way in which disciplinary cases are managed in the future.
<b>Developing the application and budget</b>	
Is it clear that the regulatory arm has led the development of the application?	The Faculty Office has no representative function and so the budget and application have been set by the regulatory arm.
<p><i>Budget</i></p> <ul style="list-style-type: none"> <li>Is it clear how the budget has been arrived at</li> </ul>	<p><b>Yes.</b> The Faculty Office expenditure for the financial years 2013 and 2014 was attached to the application (Annex 2). Items included in the 2014 expenditure reflect the nature of the expenditure the Faculty Office is likely to make in 2015, and which was set out in the application.</p> <ul style="list-style-type: none"> <li>Income forecast 2015 - £393,900 (2014 actual: £395,890)</li> <li>Expenditure forecast 2015 or £376,050 (2014 actual: £363,729)</li> </ul> <p>The LSB is satisfied this information provides clarity on the budget.</p>
<ul style="list-style-type: none"> <li>Is there evidence that the immediate and medium terms needs have been taken into account</li> </ul>	<p><b>Yes.</b> The PCF fee remains unchanged. The application explains that the budget relies on the assumption that the number of notaries re-applying for a PC will be slightly up on 2014. The information is derived from the numbers of individuals known to have passed the Notarial Practice course in summer 2015 and entitled to apply for admission, and from appointments and retirements in the course of the year.</p> <p>The Faculty Office was also pleased to note 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 the trend will continue.</p>
Are the contingency fund arrangements clear	<p><b>Yes.</b> The contingency arrangements are clear and set out in Annex 3 to the application. Contributions remain the same as for the previous year 2014/15. The application explains that for several years claims on the Contingency Fund have been low. However, over the past three years, there have been a small number of</p>

	<p>relatively low claims on the Fund and one very significant one.</p> <p>The application states that the Master believes it is necessary to maintain the previous year's contribution at £80 in order to build up the Contingency Fund to a viable amount to provide for extraordinary expenditure on discipline related matters as needed. But it also remains the hope of the Master to reduce the contribution in the following years.</p> <p>The application mentions the changes the Faculty Office is making to its Conduct and Discipline rules to help reduce costs so that there is less call on the Contingency Fund in the future. This application, under Schedule 4 of the Legal Services Act 2007, was still being considered by the LSB at the time of the assessment of this PCF application.</p>
<p><i>Consultation</i></p> <ul style="list-style-type: none"> <li>• Has the proposed fee been consulted on – if so summarise</li> <li>• Was the consultation clear about the level of fee and how it will be collected</li> <li>• Has feedback been fully considered</li> </ul>	<p><b>Yes.</b> As in previous years, the Faculty Office consulted with the two representative Societies (the Society of Scrivener Notaries and the Notaries Society) who in turn consulted with their membership. The Society of Scrivener Notaries and the Notaries Society together represent about 97% of the practising members of the profession. The Joint Registrars also attended a meeting of the Notaries Society Council in April 2015 to which they submitted a report including the PCF proposal for the coming year. The representative societies are provided with the accounts for the previous financial year, the budget for 2015 and a note of how the level of the fees has been determined.</p> <p>The application said the Master communicated to the two societies he was pleased to have been able to maintain the Practising Fee at the same level for two years running and the as a result of last year's increase in the Contingency Fund contribution, the level of the fund has begun to recover.</p>

	<p>The Faculty Office confirmed to the LSB that it had not had anything in writing from either Society in response to the consultation. However, it reported that the feeling from the Notaries Society Council meeting, which the Registrars attended, that they were pleased that the Master of the Faculties had been able to hold the PC fee at the same level for the second year and, whilst noting and supporting the need to maintain last year's increase in the Contingency Fund contribution, expressed the hope that this might be able to be reduced next year.</p> <p>The approach of consulting with the representative societies has been accepted before and is consistent with the LSB response document following the consultation on the s51 rules (September 2009).</p> <p>Within this context, the Legal Services Board is content with the consultation undertaken for this year's round.</p>
<p><i>Clear and transparent</i></p> <ul style="list-style-type: none"> <li>• Is the information provided to fee payers on the level of fee clear and transparent</li> <li>• When was/is this issued to fee payers</li> </ul>	<p><b>Yes.</b> The Faculty Office confirmed that once the PCF is approved by the LSB, the letter sent to each notary with the renewal paperwork will confirm that the fees remain unchanged from last year. As the fee is unchanged there will be no explanatory note published on the website.</p>
<b>Permitted purposes</b>	
<p>Is there evidence that the PCF income is used solely for permitted purposes</p>	<p>Master of Faculties has solely regulatory functions; all income allocated to permitted purposes.</p>
<p>Is any other income to be applied to permitted purposes</p>	<p><b>Yes.</b> PCF budgeted income for year-end 31 December 2015 accounts for about 91% of the total budgeted income. The balance of £36,300 comes from appointments, exam fees, notarial qualification information packs, and certificates of exemption. All income applied to permitted purposes.</p>
<b>Regulatory functions</b>	
<p>Is there evidence of how much of the PCF income is applied to permitted purposes that are regulatory functions</p>	<p>Master of the Faculties has solely regulatory functions; all income allocated to permitted purposes.</p>
<p>Are any shared services clearly explained</p>	<p>No shared services</p>

<b>Regulatory and equality impact assessment (optional requirement)</b>	
<ul style="list-style-type: none"> <li>Completed and included?</li> <li>If not included, is there an explanation of the potential impact</li> <li>Does the application contain commentary on the regulatory objective and the Better Regulation Principles</li> </ul>	<p>The Master of the Faculties records in the application that it has opted for a fixed practising fee, as it is not persuaded that there is any practical alternative it could introduce that would be both fair and acceptable to the profession, which at the same time not being a disproportionate exercise to calibrate notarial fees on some form of means tested basis.</p> <p>Application contains specific commentary that the Master of the Faculties does 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. It adds that without a variable fee - it would not be possible to effect a system which is any fairer than requiring a single fee for each notary.</p> <p>While light on detail, this degree of information is consistent with that provided on previous applications; recommend that this is proportionate.</p>
<b>Consultation with non-commercial bodies</b>	
<ul style="list-style-type: none"> <li>Does the application include a description of the steps taken</li> <li>Have the proposed fees been shared with such bodies</li> <li>What was the response</li> </ul>	Not applicable; Faculty Office does not deal with non-commercial bodies.
<b>LSB Review</b>	
Have we consulted with any other body on the application	No other consultation
Were any issues raised by LSB colleagues from the first review	<b>Yes.</b> One significant issue was raised in respect of the level of contributions to the Master of the Faculties Contingency Fund. This is covered in the contingency fund arrangements section of this assessment.

Paul Greening

20 July 2015