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1 December 2010

Dear Iain

**Approval of the application made by the Association of Law Costs Draftsmen (ALCD) to the Legal Services Board under s.51 of the Legal Services Act 2007 for the level of practising fees**

I am pleased to inform you that the 2011 practising fee levels charged to Costs Lawyers as set out in your application of 10 November 2010 have been approved by the Legal Services Board. This decision has been made under the authority delegated to me as Chief Executive by the LSB Board.

We are content that the information that you have provided indicates that the criteria within the Board's Practising Fee Rules have been met. I am grateful to the ALCD and Cost Lawyer Standards Board (CLSB) representatives who have worked with my staff during the approval process to reach this position.

We acknowledge that this year's practising fee approval process is in a transitional year for many of the Approved Regulators (ARs). We will be conducting a general lessons learned exercise to determine how to improve the process further in the context of next year's round. We look forward to maintaining dialogue on this over the coming months.

There are three specific areas where we consider there are improvements to be made in the practising fee process adopted by the ALCD this year and where we would therefore expect to see changes made in time for the submission of next year's application.

First, we note the omission of any consultation with non-commercial bodies as the one gap in an otherwise satisfactory consultation process. The Legal Services Act 2007 sets out that the LSB's practising fee rules must contain a provision to consider the impact of the proposed fee on persons providing non-commercial services. In the LSB's criteria for approving practising fee levels we encourage the ARs to share details of the practising fee

level with appropriate bodies such as Law Centres Federation, Citizens Advice and Advice Service Alliance in advance of submission to the LSB. We acknowledge the reassurance provided by Lynn Plumbley, CLSB CEO that the consultation process next year will be open to non-commercial bodies and we will further monitor this point for next year's round.

Second, in line with the settlement of the independence certificate, we will expect further development in protocols between the ALCD and CLSB for submitting next year's application. This should include clear arrangements for consultation with the ALCD as the representative body and acknowledgement that managing the allocation of practicing fee income, other than any income for non-regulatory permitted purposes, rightly sits with the CLSB. While we acknowledge that the ALCD and CLSB are in a transition stage in regards to the ALCD's regulatory function, we are likely to seek greater assurance in next year's exercise about the existence of such protocols and how they have been applied in practice.

Finally, the ALCD have highlighted that an analysis of total practising certificate fee (PCF) income by authorised person is tentative at this time as there is limited data relating to the numbers of authorised persons paying the PCF. Due to the uncertainty in the number of authorised persons who will pay a practising fee for next year, we will seek assurance from the ALCD/CLSB that if the total PCF income collected for next year exceeds the budgeted amount of £125,000 for the CLSB; the extra income received will only be allocated to activities that are permitted purposes. In terms of contingency, we note that the application sets out that an amount of approximately £25,000 has been provided within the budget for the CLSB and the ALCD have committed to establishing CLSB as an independent regulatory body and will provide sufficient funds from ALCD reserves to meet any further contingency requirements above the existing contingency provision of £25,000. We will also seek assurance that the ALCD have sufficient provisions in their reserves to cover the CLSB budget if the PCF income collected falls below that of the £125,000 budgeted for CLSB to conduct their regulatory activities.

In preparation of the submission of the ALCD/CLSB practising fee application for next year's round, we suggest that ALCD/CLSB representatives meet with LSB to prepare the structure and content of the application for next year. It may also be useful to discuss the wider issue of our concerns outlined in the paragraph above of the ALCD's financial systems and information and their plans and risk mitigation to address these concerns.

Please contact Sonya Gedson, Regulatory Associate, [sonya.gedson@legalservicesboard.org.uk](mailto:sonya.gedson@legalservicesboard.org.uk) or 020 7271 0073 if you have any questions.

I have written in identical terms to Lynn Plumbley, CLSB CEO.

Yours sincerely



**Chris Kenny**  
Chief Executive

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