

Approved regulator (AR)	ILEX Professional Standards (IPS) & ILEX (ILEX)
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Final application	Type of format received	Confirmed receipt of application	Document link
Receipt of final application on 5 August 2011	Email	Emailed	http://www.legalservicesboard.org.uk/Projects/independant_regulation/2011_practising_fee_applications.htm

Pre-draft application process including draft documents or correspondence received for assessment against the final application

	Yes or No	Description	Date received
Did the LSB receive a draft application?	Yes	-	29 June 2011
Was there a pre-meeting between AR representatives and the LSB?		-	-
Do we have any concerns arising from the draft application?		No major concerns; email sent on 15 July 2011 to request additional information to be included in the final application	15 July 2011
Have these concerns (if any) been resolved?	Yes	Additional information received with the final application	05 August 2011
Does the final application include a section on how the AR has dealt with the areas for improvement (if any) highlighted in the previous year's approval letter? If yes, have these issues been dealt with to the satisfaction of the LSB?	Yes	We noted two issues of concern on consultation and independence in last year's application which we indicated that must be addressed in the 2011/12 application. IPS/ILEX have conducted a full consultation process with Fellows this year and feedback was considered in the setting of the final fee. The second issue of concern that the lead responsibility in taking forward the process in submitting the application and managing the PCF income sits with the regulatory arm (IPS). While this year's application has been lead by ILEX, both IPS/ILEX have indicated that for subsequent PC fee applications, IPS will take the lead in identifying the costs of regulatory activities, IPS will also consult with those paying practising fees.	-

Summary

The LSB have the required information to consider the application against the PF Rules 2009 and criteria.

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	The PCF was set in the context of the ILEX Group's 3-year budget and business planning process.
Is there sufficient detail to make an assessment of 'reasonable care' when settling the application?	Yes	The budget and PCF has been set in light of the additional costs for regulation which will be met through reserves and applying greater than inflationary increase to the PCF (an increase of 10% or £25 compared to last year).

Overall comments

No comments

Evaluation

The application meets the criteria and evidence for Section 1: Developing the application that must be provided for this section in each PCF application.

Level of concern **No concern**

Criteria - budget	Yes or No	LSB Assessment
Is there a description of how the budget was developed and settled?	Yes	The budget for ILEX PS is developed and set by the IPS Board and is then consolidated into the ILEX Group.
Is there evidence that the budget was settled in light of immediate and medium term budgetary needs?	Yes	The new fee level was set in light of the forward budget and the business plan and consultation with Fellows. The increase in fee levels will apply to all membership grades except students (please note only the fees for Fellows fall under the s.51 PCF process and is the only fee level that requires LSB approval).
Is there a description of contingency arrangements?	Yes	Cash reserves at end of 2010 were £7.2m, nearly 3 times the PCF and membership income for that year. IPS set their regulatory strategy by due to changes to regulatory projects (of which the LSB is aware) the regulatory strategy is under review by the IPS Board (to be finalised in September 2011). If additional resources are needed ILEX confirms such requests will be met.
Does this include a section on the consultation undertaken with practitioners?	Yes	A full consultation process with Fellows was conducted [see Section 4 of this assessment summary].

Overall comments

The LSB may wish to request a copy of the revised IPS regulatory strategy post September which may be included in decision letter. The LSB may also wish to acknowledge ILEX/IPS independence procedures to be in place for the next PCF round in which IPS will lead the PCF process.

Evaluation

The application meets the criteria and evidence for Section 1: Setting the budget that must be provided for this section in each PCF application.

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 income raised through PCF charge are applied solely to the permitted purposes ?	Yes	In the description set out in the application, IPS/ILEX give a level of assurance that the total income collected from the PCF of £18.89M in 2012 (2011: £17.53M) is used entirely to meet regulatory expenditure of £20.12M (2011: £21.63M) [refer to Section 2 of the application]
Does it include a budget that shows the anticipated income from practising fees?	Yes	In 2012, PCF income is £18.89M compared to £17.53M in 2011 (increase of 7.7%) [refer to Table 2 and 3 of the application]

Criteria	Yes or No	LSB Assessment
Does it include an analysis of expenditure against the permitted purposes?	Yes	The application gives a breakdown of expenditure by the type of expenses and by Company/Department. The total PCF expenditure in 2012 is £20.12M compared to £21.63M in 2011 (decrease of 7.0%). For 2012, the total expenditure is made up of sub categories which fall under the definition of permitted purposes for regulatory activities: IPS budget £6.58M (2011: £6.92M), Levy £2.7M (2011: £4.68M), ILEX cost for permitted purposes £10.84M (2011:£10.03M) [refer to Table 2 and 3 of the application]. Please note a deficit of £1.14M in 2012 (decrease by 71.5% from 2011). This deficit will be met by the ILEX group's other sources of income (including income from membership and training) and from reserves.
Does it include an analysis of income and expenditure related to all other expected income to be applied to permitted purposes?	Yes	The application gives a breakdown of non PCF income allocated to the permitted purposes (other than regulation) totalling £10.6M (decrease of 5.7% since 2011). The total expenditure on other permitted purposes was £20.5M in 2012 (decrease of 0.5% since 2011). [refer to Table 2 and 3 of the application]. Please note a deficit of £9.9M in 2012 (decrease by 6.3% since 2011). This deficit will be met by the ILEX group's other sources of income (including income from membership and training) and from reserves.

Overall comments

In section 2 of the application IPS/ILEX indicate that the difference between the two budgets reflect an increase in the PCF for Fellows (and all other membership bands except students which do not come under the s.51 PCF process). It also reflects an IPS which may be subject to change as it is currently being revised due to recent changes to regulatory projects, the 2011 budget anticipated higher levies and other regulatory activities which includes all regulatory carried out by ILEX and the provision of services to IPS and which are governed by ILEX/IPS Protocols.

Evaluation

The application meets the criteria and evidence for Section 2: Permitted purposes that must be provided for this section in each PCF application.

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 clarity and transparency of how the PCF income collected by practising fees is applied to permitted purposes which are regulatory functions (not representative)?	Yes	In the description set out in the application, IPS/ILEX give a level of assurance that the PCF income is only used for regulatory activity. It also states that regulatory and permitted purposes activities within the ILEX group are carried out both by ILEX as the approved regulator and by IPS, its devolved regulatory body. A description of each department in the ILES group is explained in the application [see Section 2 of the application].
Is there a description of shared services?	Yes	The central resources department provides HR, finance and accounting, the Group CEO and pays the LSB & OLC levies etc. [see Section 2 of the application]. In 2012, expenditure on central resources totalled £9.93M (decrease of 17.5% in 2011). In 2012, the total income allocated to central resources came from several sources including PCF income plus training & other income of £4.64M (2011: £6.55M), income allocated to other permitted purposes of £3.8M (2011: £4.02M), and other sources of income of £1.49M (2011:£1.48M). The proportions of each income source contributing to central resources are: PCF/training & other (46.7%), other permitted purposes (38.3%) and other income sources (15%).

Criteria	Yes or No	LSB Assessment
Is there clarity and transparency of how the PCF income collected by practising fees is applied to permitted purposes which are not regulatory functions ?	Yes	In the description set out in the application, IPS/ILEX give a level of assurance that no PCF income has been allocated to permitted purposes which are non-regulatory.

Overall comments

Please note that the chart named '[Fellows PCF Chart 010811](#)' included in the application's supporting documents, gives a breakdown of '**Where Your PCF is Spent**'. It explains that the majority of the PCF income being spent on ILEX costs on permitted purposes that are regulatory (53.9%), with a lesser proportion allocated to IPS costs (32.7%) and the Levy (13.4%). A reason for the disproportionate allocation of PCF income to ILEX costs (permitted purposes which are regulatory) may be that none of the central resources budget is allocated to IPS as it remains part of ILEX's regulatory activities.

Evaluation

The application meets criteria and evidence for Section 3: Regulatory Functions that must be provided for this section in each PCF application.

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?	Yes	After the May Council meeting the Chief Executive [ILEX] wrote to all Fellows to seek their views on the increase in the PCF.
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	ILEX members receive the ILEX Annual Report including audited accounts in time to attend the AGM and may raise issues at the meeting or in advance.
If yes, does the application also include a description of how that feedback influenced the decision-making and policy development processes?	Yes	A total of 32 responses were received the majority not supporting the increase on the basis that members has seen a pay freeze or salary reduction and local government employers would no longer pay Fellow's PCF, despite paying those of local government solicitors. These responses were considered by the Institute's Council and it was decided in light of the deficit in 2010 and the projected deficit of 2011 that the PCF would increase by the stated amount as it doesn't meet the total cost of regulation and reserves will be used instead of charging the full cost to members.

Criteria	Yes or No	LSB Assessment
Consultation with members		
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	A letter will be sent to those paying PCF and is included in the application. These documents provide a good level of written detail on the fee level including feedback from the consultation process and a useful chart showing how the PCF income is apportioned between the costs for ILEX, IPS and the Levy.
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	Upon the final fee decision by the LSB a letter will be sent to members. IPS/ILEX also intends to write to Associate Prosecutors to advise that they will not have an increase in fees this round [see document 'associateprosecutorssept2012']. Please note that these fees are not included in the section 51 process.

Overall comments

We suggest that informal feedback is given to ILEX to suggest they include the helpful graph included in the application which breakdown the total PCF income and reserves and how it has been spent which is similar to the Council tax analogy mentioned in the he criteria document.

Evaluation

The application meets the criteria and evidence for Section 4: Clarity and Transparency that must be provided for this section in each PCF application.

Level of concern: **No concern**

Section 5: Regulatory and Equality Impact Assessment (EIA)

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?		No
If no, does the application include a description of how the proposals may potentially impact on various groups (this include the impact of increased fees if appropriate)?	Yes	IPS/ILEX have identified the potential impact of various groups within their membership both through Council papers and consultation with Fellows. The responses to the consultation on the increase of the fees highlighted members from local government cited difficult financial circumstances with some indicating that their employer did not pay their PCF (although they paid the solicitors PCF), conveyancing members had not received a pay rise in 3-years with some had salaries reduced. IPS/ILEX benchmarked their fees against other professional bodies and the proposed fee level was above the mean but below the maximum charged.
Does the application include a description of how the proposals have been developed in light of the Regulatory Objectives as set out in the Legal Services Act 2007 and Better Regulatory principles?		No

Overall comments

No comments

Evaluation

The application meets the criteria and evidence for Section 5: Regulatory and Equality Impact Assessment that must be provided for this section in each PCF application.

Level of concern:

No concern

Section 6: Consultation with non-commercial bodies and others

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?		Legal Executives are regulated and pay PCF as individuals and therefore are no direct or substantive impact on non-commercial legal service providers.
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?		N/A
Have the non-commercial bodies provided any response to the details shared to them by the AR?		N/A

Overall comments

No comments

Evaluation

The application meets the criteria and evidence for Section 6: Consultation with non-commercial bodies that must be provided for this section in each PCF application.

Level of concern: **No concern**

Criteria - others	Yes or No	LSB Assessment
Have we considered if we need to consult with anyone else on this application?	Yes	We did not consider it necessary to consult any other group.
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

No comments

Evaluation

The application meets the criteria and evidence for Section 6: Consultation with others (if appropriate) that must be provided for this section in each PCF application.

Level of concern: **No concern**

Final assessment and decision

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

We recommend that the level of the practising certificate fee for each Authorised Person, as set out in the IPS/ILEX application for 2011/12 and supporting documents received 5 August 2011, be approved by the LSB. This decision is to be made under the authority delegated to the Chief Executive by the LSB Board.